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## Developing a shipping registration strategy for the Philippines: a business and policy framework

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**WORLD MARITIME UNIVERSITY**

Malmö, Sweden

**DEVELOPING A SHIPPING REGISTRATION  
STRATEGY FOR THE PHILIPPINES**

**A Business and Policy Framework**

By

**ALTHEA MARIE E. CALAG**

**CARLO B. CRUZ**

**Philippines**

A dissertation submitted to the World Maritime University in partial  
fulfilment of the requirement for the award of the degree of

**MASTER OF SCIENCE**

**in**

**MARITIME AFFAIRS**

**(SHIPPING MANAGEMENT AND LOGISTICS)**

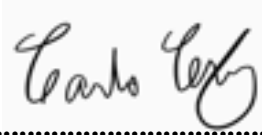
2019

## Declaration

We certify that all the material in this dissertation that is not our own work has been identified, and that no material is included for which a degree has previously been conferred on us.

The contents of this dissertation reflect our own personal views, and are not necessarily endorsed by the University.

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(Date): 24 September 2019

24 September 2019

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## **Acknowledgement**

Having the opportunity to live and to study in Sweden for fourteen (14) months has been a wonderful privilege not everybody can have.

From the bottom of our hearts, we would like to thank the Lord Almighty for his guidance, direction and divine inspiration in the pursuit of our Masteral studies with the end in view of sharing the knowledge and experience that we gained with our maritime industry colleagues.

To our beloved parents who have been our constant source of encouragement, support and unconditional love not only in this study, but also in all our endeavors;

To our sponsors, the International Maritime Organization and the Gard AS, for funding our studies at the World Maritime University;

To the Management of the Maritime Industry Authority, Overseas Shipping Service and Domestic Shipping Service families for being an essential instrument in our selection and nomination to this enviable opportunity for advanced academic achievement in the maritime field;

To Professor Dong-Wok Song, our supervisor Professor Satya Sahoo and all the Lecturers we had for unselfishly imparting their knowledge, experience and exposure in the different maritime fields enabling us to better appreciate the global maritime industry;

To our SML classmates who shared their valuable friendship, diverse cultural values and sense of family during the course of our study and stay in Malmö;

To our friends who encouraged us to be the best of what we can be and who never get tired of supporting us through prayers, words of encouragement and acts of kindness;

To our Swedish host families, Primrose and Lars, who inspired and believed in us in transforming our dreams into reality through their warm support and concern;

To all the WMU staff who shared endless smiles and helping hands in areas where they can be depended on;

Last but not the least, to the Filipino community in Sweden, especially to our “Titas”, who have been most selfless in welcoming and sharing with us in their homes and making us feel we are part of their families and in helping us overcome the difficulties and challenges of living in a distant country, including their valuable support and contribution in activities wherein a taste of Filipino culture and hospitality can be shared.

## **Abstract**

Title of Dissertation: “Developing a Shipping Registration Strategy for the Philippines – A Business and Policy Framework”

Degree: Master of Science

This research describes the study of the ship registration system in the Philippines. It starts from its rationale, application process, documentary requirements, tax regime, incentives, strengths and weaknesses, marketing strategies, ease of doing business and up to its competitiveness with other flag states.

Relative thereto, since the Philippines is well-known to be a major supplier of competent and hardworking seafarers all over the globe, it is rational that the country should not only focus on its maritime human resource, but also on other aspects, such as the domestic and overseas shipping registry. It can be noted that a vibrant ship registry could significantly affect the country’s standing in the maritime community and boost the economy as it will provide more prospects for foreign and local investments and job opportunities for Filipinos. With this, there is a need to address the continuous decline in the number of ships being registered under the Philippine flag.

Moreover, this research will hopefully contribute to the development and further improvement of strategies, recommendations and monitoring activities that will be useful in making the Philippine flag a more competitive one. This is also to emphasize that this paper can be used for future studies on the topic.

Subsequently, working as frontline public servants gave a prospective of not only on the regulatory side, but also looking at the commercial side of shipping, since dealing with clients daily is part of the task. With these strategies and recommendations to be taken into consideration by the management, can ease and have a way forward for a more effervescent Philippine ship registry.

**KEYWORDS:** Ship registration, strategy, competitive, performance, attractive, business and policy, framework, ownership

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## **List of Abbreviations**

BOS	Bill of Sale
CHED	Commission on Higher Education
COLREG	Convention on the International Regulations for Preventing Collisions at Sea
DA	Deputy Administrator
DBP	Development Bank of the Philippines
DFA	Department of Foreign Affairs
DOH	Department of Health
DOS	Deed of Sale
DOTC	Department of Transportation and Communication
DOTr	Department of Transportation
DSS	Domestic Shipping Service
DTI	Department of Trade and Industry
ED	Executive Director
EO	Executive Order
IACS	International Association of Classification Societies
IMO	International Maritime Organization
IMSAS	IMO Member State Audit Scheme
LL	International Convention on Load Lines
MARINA	Maritime Industry Authority
MARPOL	International Convention for the Prevention of Pollution from Ships
MC	MARINA Circular
MIDP	Maritime Industry Development Program
MOA	Memorandum of Agreement
MOTC	Ministry of Transportation and Communication
MRO	MARINA Regional Office
NSW	National Single Window

NTC	National Telecommunications Commission
OP	Office of the President
OSS	Overseas Shipping Service
PCG	Philippine Coast Guard
PD	Presidential Decree
PHP	Philippine Peso
PPA	Philippine Ports Authority
PRC	Professional Regulatory Commission
RA	Republic Act
RO	Recognized Organizations
SEC	Securities and Exchange Commission
SIRB	Seafarer Identification and Record Book
SOLAS	International Convention for the Safety of Life at Sea
SONAME	Society of Naval Architect and Marine Engineers
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
TESDA	Technical Education and Skills Development Authority
TPME	Technical Panel on Maritime Education
WMU	World Maritime University

## 1. INTRODUCTION

### *1.1. Background*

Long before the invention and development of land highways and railways, the most convenient way to transport people and to ship goods from one destination to another was through waters and the high seas (Green, Malone & Gray, 2013). The curiosity and thirst of mankind for discovery of the different parts of the world led to the exploration for homelands, territories, exchange of goods and services with various kinds of people, and the like. Since the most fitting way to move things was by sea, maritime transport has significantly influenced the civilization, development and advancement of the modern world. Maritime transport is the backbone of global seaborne trade since the ancient times and has undergone numerous changes since then (Manaadiar, 2018).

In the succeeding years, the shipping industry grew exponentially with the help of not only the recent advancement in technology, but also people's way of thinking and business management style. What was once a vision has changed the world drastically. The shipping industry continues to change and to develop.

Seaborne trade volume reached 10.7 billion tons with an equivalent of 753 million TEUs in global container traffic in 2017 (UNCTAD, 2018). The developing economies' share of global goods also rose to 63% in 2017. Accordingly, with Asia as the biggest trading region globally, 4.4 and 6.5 billion tons of goods were loaded and unloaded, respectively, at Asian ports (UNCTAD, 2018). With this, it also contributed to that almost half of the global fleet is owned by entities in the Asian region. Currently, there are 118,825 sea-going merchant ships worldwide of approximately 1,333.6 million gross tonnage with an average age of 22 years old (IHS Markit, 2018).

Since this research paper is going to delve into the status of ship registration in the Philippines, it is compulsory to briefly describe the geographical context of this insular country in Southeast Asia. Particularly its characteristics influencing the natural vocation of Filipinos to participate in the maritime industry, as seafarers, and shipyard employees; however, there is lack of strong strategies or policies to develop

and improve the current procedures of the ship registration, in order to increase the market share of ships flagged under the Philippines.

To begin with, the Philippines is an archipelagic country of about 7,000 islands bordering the Pacific Ocean, the South China Sea and the Philippine Sea, with a vast coastline and a strong sea and ocean-going history. In recent years, the country has been known as an active and vibrant source of maritime manpower, owing to a vast pool supply of seafarers that the country provides to the commercial ships of the world. While the Philippines maintains and promotes its leading role in this aspect of world commercial shipping, the state and its agencies are not remiss in its aim to enhance its role in the maritime sector and to improve other sectors and have the Philippines provide a meaningful contribution, as well as advance its state and domestic interests.

This thinking is clearly seen in the fact that there is a push from the government, through efforts from the Maritime Industry Authority (MARINA), to improve its standing in the world maritime shipping body, international communities, as well as in other sectors of the shipping industry, like shipbuilding, ship repair and logistics. While the Philippines has, over the years, focused on its main core strength of ship manning, primarily due to the humanitarian conditions, it has not forgone its historical strengths in other aspects of shipping. It is in this regard that the Philippines has actively pursued a strong and balanced maritime industry, as is gleamed in its 2018 Maritime Industry Development Plan (MIDP), a ten-year roadmap to develop the entire maritime industry.

In the MIDP, a special role in the overseas shipping goal is the development of the flag state registry, as the development of a healthy ship registry promotes the shipping interest and balanced maritime industry of any country.

### ***1.2. Motivation/Who we are***

The Maritime Industry Authority, or commonly called “MARINA,” is the national government agency responsible for the development and promotion of all aspects of the maritime industry, including but not limited to its participation in the foreign or overseas shipping.

Primarily working as industry analysts of the maritime administration, the goal is to promote the maritime industry of the Philippines, as well as the maritime interests of the state. Working under the Overseas Shipping Service (OSS) and Domestic Shipping Service (DSS), the service arms of the MARINA that handles all matters in the foreign and local maritime relation, it can be observed that while the country is able to attain its goal in better representation in international and bilateral maritime associations and agreements, an aspect of overseas shipping seems inadequately addressed – the development of the foreign ship registry.

The Philippines has never abandoned its foreign ship registry; it has always maintained an open registry and has likewise promoted it. However, there is lack of strategic plan to develop it and maintain its competitiveness and vibrancy as a registry.

It has been stated as one of the tasks and responsibilities of the OSS is the ‘development of a competitive overseas shipping fleet’ and this same goal was reiterated in the MIDP, which stated as a priority towards the development of the Philippines as ‘a global maritime hub’ is the development of an ‘attractive Philippine Ship Registry’ (Maritime Industry Authority, 2018).

In this regard, as support to the fundamental task of OSS, this research paper will tackle the creation of a development strategy for the Shipping Registry, within the context of the goal of the state and the administration of developing a competitive, attractive and vibrant ship registry.

Based on the foregoing, MARINA’s regulation and supervision of ship registration finds legal basis pursuant to Presidential Decree No. 474 and its subsequent laws, which will be further discussed in the next few chapters. It can be noted that the creation of MARINA will provide for the effective supervision and regulation not only of the organizational management, but also for the operations of all water transportation utilities and shipping companies.

Based on the recently published Overseas Shipping Sector Roadmap (2018 and beyond), ‘the Philippines as a human resource capital for ship management and other maritime services’ has been adopted as one of the national maritime strategies under the OSS Sector Roadmap Framework, comprising the broad course of actions or statements of guidance by the Philippine government at the national level in pursuance

of its objectives. To promote the overseas shipping sector as an instrument towards the creation of employment and business opportunities, the foreign ship registry should be expanded by providing a legal framework that would allow foreign investment in the Securities and Exchange Commission (SEC) registered shipping companies whose ships should be managed by Philippine managers and manned by full Filipino crew.

### ***1.3. Research objectives***

After careful consideration, the questions and problems that will be tackled in this research paper would be the apparent lack of a strategic program in developing the Philippine registry. In relation thereto, the objectives and their corresponding research questions are enumerated below:

General objective:

1. To create a shipping registry strategy for the Philippine foreign ship registry that is in line with the primary task of the OSS of developing a ‘competitive shipping fleet’, as well as within the purview of the MIDP role of creating an attractive Philippine ship registry;
  - Are the existing policies, rules and regulations governing the ship registration sufficient to entice more investors in the Philippines? What are the aspects which are attractive or considered competitive as a destination for foreign ships in a flag registry?

Specific objectives:

2. To conduct an in-depth study of the aspects of what makes a ship registry competitive and attractive to foreign ship owners;
  - How is the situation in the Philippines compared with the top five (5) flag state registrations, in terms of policies, rules and regulations, qualification requirements, among others.
3. To conduct a situational analysis of the Philippine ship registration industry in the light of current policies, rules and regulations on the accreditation/ registration of maritime enterprises engaged in shipping activities, both in the domestic and overseas shipping sectors of the Philippine maritime industry and



the existing national maritime policies, objectives and strategies enshrined in the overall MIDP, the OSS and DSS Sector Roadmap Frameworks;

- Which aspects of the Philippine flag registry can be considered strengths and which are weaknesses?
4. To assess whether the Philippine ship registration industry can be at par with or be competitive with top tier countries, and, if necessary, to be modified accordingly; and,
    - How to promote those strengths and address the weaknesses?
  5. To provide a solid basis for recommending measures and areas of improvement to the Philippine government, through MARINA, in terms of new/revised policies, rules and regulations governing the accreditation/registration of ships.
    - How to implement these findings to the Philippine setting?

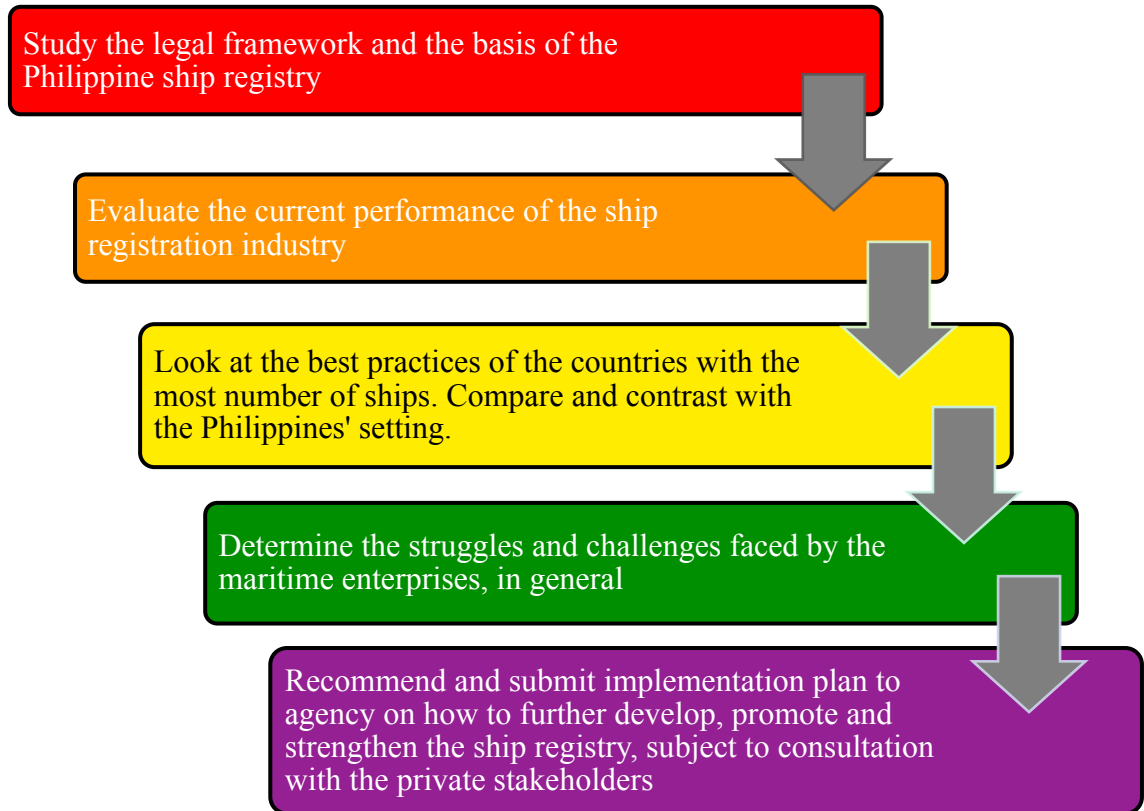
### ***1.5. Research contribution***

The research paper focuses not only on the ship registration, but also the process of accreditation and registration of maritime enterprises in the Philippines. As one of the developing countries in Asia, this research will be in the point of view of the government agency responsible for the implementation of anything related to the maritime administration. By improving the marketability and competitiveness of the Philippine ship registration, the maritime administration could further improve all the maritime industry sectors – domestic shipping, overseas shipping, shipbuilding and ship repair, and maritime human resources.

Consequently, additional studies may be improved especially on shipbuilding, in accordance with the capabilities of the Philippines in terms of ship type that can cater to the requirements of the overseas shipping sector. Also, the online processing of all applications should be deeply scrutinized as current technology advances and for ease of doing business with the country.

### ***1.6. Research structure***

This research paper is composed of six (6) chapters. The summary of the flow of the structure of the research is presented as follows:



*Figure 1. Research paper structure*

Chapter one describes the background of the research, motivation for choosing the research, objectives, structure of the research, potential limitations and a brief summary of the paper.

Chapter two provides previous studies similar to ship registration, including best practices of top flag registrations, current situation in the Philippines, and the like.

Chapter three presents the analysis of the legal regime of ship registration in the Philippines. Since this paper is primarily dealing with a state institution that has an administrative background, the implementing agency, MARINA and particularly OSS, the area that would be dealing with are laws and administrative order, which would best suit a legal research background. There is a need to analyze the existing laws and regulations which would benefit a state program, which in this case is the

foreign ship registration. In this regard, the focus is on state legislations and administrative orders, implementing laws, and other legal aspects that make a state program function.

Chapter four deals with the business regime wherein it is likewise the goal of the administration to make the foreign flag registry to be competitive and attractive. As such, there is a need to see the business and economic degree of the program, and how to make it function in an open competitive market with other flag registries

Chapter five discusses the SWOT analysis on the Philippine foreign ship registry to discover which aspects are noteworthy and need improvement. There is also a special review on the MIDP of the Philippines, which highlights a five-step program to develop the flag registry and whether this addresses the needs of the industry and whether it makes the registry competitive. There is also policy discussion and recommendations.

Chapter six contains the conclusions of this research paper, with emphasis on future reference and further studies on Philippine ship registry.

### ***1.7. Scope and potential limitations***

In addition to that, relevant materials and literature are collated and this research paper will have to delve into the following aspects carefully:

1. Legal framework and basis
  - Review the legal framework and basis for the registration of ships plying international waters in the Philippines based on existing laws, policies, rules and regulations
  - Enable laws for the regulation/supervision of ship registration;
  - Review laws, policies, rules and regulations on the accreditation and registration of maritime enterprises operating their ships under the Philippine flag
  - Review sufficiency or insufficiency in existing laws, policies, rules and regulations
2. Existing qualification and documentary requirements

- Determine and assess the qualifications and documentary requirements for the accreditation of maritime enterprises and registration of ships, including the existing systems, procedures and compliance monitoring system of such regulatory and supervisory functions of the government
  - Need for any amendment/s of requirements to ease doing business
3. Existing systems and procedures
    - Step-by-step process from evaluation of applications up to release of documents
    - Flow chart of application and standard processing time
    - Need to improve existing systems and procedures
    - Processing fees
    - Tax regime and incentives
    - Fines and penalties
    - Pros and cons of online processing and digitalization
  4. Compliance' monitoring system
    - Discuss how accredited maritime enterprises are monitored during the validity of their accreditation certificates
  5. Current situation
    - Number of ships registered in the Philippines, particularly the ships plying in the international waters
    - Scope and nature of operation of shipping management entities
    - Evaluate the current performance of ship registration with respect to income generation, job opportunities, socio-economic benefits to the country and to the maritime industry;
  6. Strategies and approaches
    - Identify and assess the strategies and approaches implemented or to be implemented by the government to further develop, promote, expand and strengthen the ship registration;
    - National maritime policies, circulars, objectives, strategies, relating to the ship registration and ease of doing business

- Sectoral plans for expanding the ship registration citing the Philippine shipping management industry as a potential area for development, promotion and strengthening
  - Inclusion of the shipping management industry in the MIDP as part of the maritime human resource sector (ship managers, technical expertise, etc.)
  - Vertical and horizontal linkages with other government agencies and stakeholders
7. Best practices
    - Success indicators of the top countries where ship registration practices are worth or not worth emulating
    - Compare success indicators and determine whether these exist in the Philippine shipping management industry
    - Identify and compare good practices of selected countries with the top flag state registration in terms of deadweight tonnage through a set of pre-determined success criteria
  8. Difficulties and challenges
    - Determine the difficulties and challenges encountered by accredited and registered maritime enterprises in ship registration that prevent them from competing with their regional and global counterparts
  9. Measures and areas of improvement
    - List measures and areas of improvement to address the identified difficulties and challenges
    - Identify proposed measures and areas of improvement to address the difficulties and challenges encountered by registered maritime enterprises who want to register their ships under the Philippine flag
  10. Strategies on making the Philippines have an attractive and competitive ship registry
    - To-do list to make this possible

## 11. Implementation plan

- Recommend/submit implementation plan to government on how to further develop, promote and/or strengthen the ship registration in the Philippines, subject to consultation with and concurrence of relevant industry private stakeholders
- Matrix of target activities, outputs and timelines on the entire proposal to further develop, promote and/or strengthen the ship registry – critique as stated in the MIDP

Providing the detailed structure of this research paper, it can also have some limitations. First, insufficient time in analyzing and studying the different aspects that affect the ship registration of states, and confidential relevant information from flag states. Second, working as industry analysts that are considered entry level positions in MARINA may have certain restrictions on suggestions to the top management. Third, there may be some relevant information that is not easily obtained since it requires a certain amount of time before it can be organized. Lastly, this research can be used for further study and improvement purposes and references.

### ***1.8. Brief findings***

In an aggressive maritime industry, every player should be able to play the game and know how to receive losses/defeats. Similar to flag ship registration and all other aspects that come alongside it (shipbuilding and seafaring), making policies will not be enough without a proper implementation, monitoring, business framework and marketing program for the industry.

With this research, it is not only the sole responsibility of the maritime administration, but also the private stakeholders to comply with regulations, to assess the working environment and to address current and upcoming challenges in a harmonious way. The Philippine maritime industry will only continue to flourish if all sectors work hand in hand to achieve the same goals, eg new job opportunities, foreign and local business investments, establishment of online application systems for all transactions and amendment of tax incentives.

## 2. REVIEW OF RELATED LITERATURE

### 2.1. Country maritime profile

The Philippines is an archipelagic country located in the south eastern part of Asia, consisting of 7,641 islands (National Mapping and Resource Information Authority, 2017). The Philippines is strategically located along the international sea lanes of commercial ships that cater to the world seaborne trade. Surrounded by the Pacific Ocean, South China Sea and Philippine Sea, it shares borders with its neighboring countries, Taiwan, China, Indonesia, Japan, Malaysia, Palau and Vietnam. It has three (3) main islands – Luzon, Visayas, and Mindanao. It occupies a land area of approximately 300,000 km<sup>2</sup> and is heavily populated with an estimate of 106.65 million (World Bank, 2018).

As an Asian developing economy, the Philippines continues to strive and to show that its maritime sector has strongly contributed to the country's performance as a whole, as shown in Table 1:

Table 1  
*2017 World Shares for the Philippines*

<i>Indicators</i>	<i>World share</i>	<i>Actual values</i>
Gross Domestic Product (USD)	0.39%	313,595 million
Merchandise exports (USD)	0.39%	68,713 million
Merchandise imports (USD)	0.57%	101,901 million
National flagged fleet (DWT)	0.33%	6,235,000 deadweight tonnage
Fleet ownership (DWT)	0.11%	1,965,000 deadweight tonnage
Container port throughput (TEU)	1.09%	8,196,961 TEU
Ship building (GRT)	3.01%	1,980,322 gross tonnage
Ship scrapping (GRT)	0.01%	2,815 gross tonnage

Note: World share are all in percentage unit

Source: UNCTAD, 2018

Considering that the Philippines is an archipelagic country with considerable coastline and abundant ocean-going history, the primary objective is to be able to ensure integration and reliable maritime transportation network that will bring the islands closer together with safe, secure and cleaner shipping.

## ***2.2. The role of the Maritime Industry Authority (MARINA)***

As briefly mentioned in the previous chapter, MARINA is a specialized regulatory national agency attached to the (now called) Department of Transportation (DOTr) to assist in the promotion of national interests and to comply with the responsibilities as port, flag and coastal state. MARINA is tasked to guarantee the safety of transportation of passengers, crews and cargo not only in the inter-island and domestic routes, but also in the international routes.

Note that the DOTr was previously named as “Ministry of Transportation and Communications”, then it was restructured into “Department of Transportation and Communications” before becoming the DOTr.

Table 2  
*MARINA Charter Statement*

Charter Statement	
Mandate	Accelerating the integrated development, promotion, supervision and regulation of the Philippine maritime industry
Vision	To be the strong and dynamic maritime authority of the Philippines
Mission	To provide leadership in transforming the Philippines into a major maritime nation
Core values	Professionalism, integrity and excellence

*Source: MARINA, 2019*

Table 2 shows the Charter Statement of MARINA as maritime administration. It is mandated to accelerate the development, promotion, supervision and regulation of the Philippine maritime industry. With this mandate, MARINA has set the vision to be the strong and dynamic maritime authority of the country and the mission to provide leadership in transforming the country into a major maritime nation. Its core values, which every employee must uphold, are professionalism, integrity and excellence.



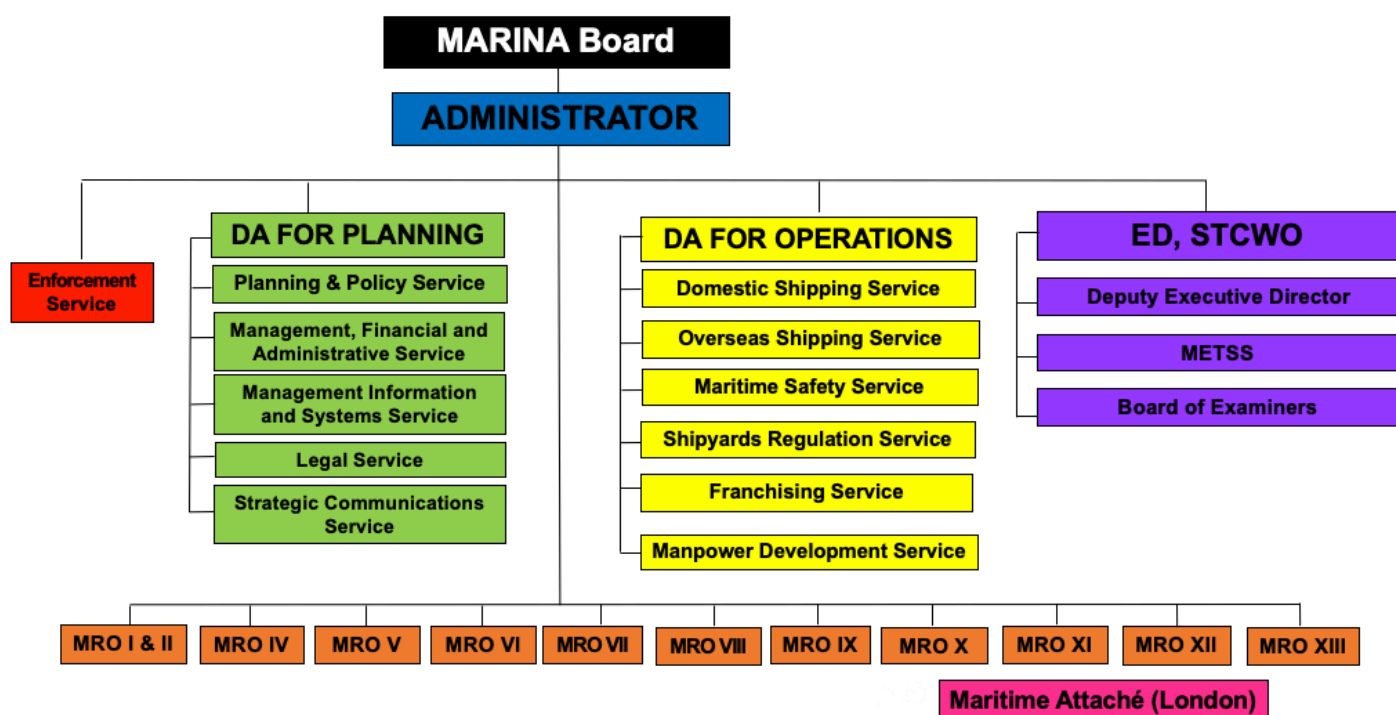


Figure 2. MARINA Organizational Structure

Note: DA stands for Deputy Administrator, ED stands for Executive Director and MRO stands for MARINA Regional Office

Source: MARINA-PPS, 2019

Figure 2 illustrates the existing overall organizational structure of MARINA. Primarily governed by the MARINA Board, the Administrator serves as the agency head directing a total of twenty-five (25) service units, eleven (11) of which are regional offices scattered all over the archipelago, as shown in Figure 3.

The Deputy Administrators (DA) for Planning and Operations have five (5) and six (6) units, respectively. The STCWO has twelve (12) units (that are not shown above) and is the office responsible for the implementation of the International Convention on the Standards of Training, Certification and Watchkeeping of Seafarers. Lastly, MARINA also has its Maritime Attaché stationed in London, United Kingdom since 2016. Moreover, the MARINA Board is composed of the following:

- Chairperson: Department of Transportation (DOTr) Secretary
- Vice-Chairperson: MARINA Administrator
- Members: Office of the President (OP)
- Philippine Ports Authority (PPA)
- Department of Trade and Industry (DTI)

Development Bank of the Philippines (DBP)  
Philippine Coast Guard (PCG)  
Department of Foreign Affairs (DFA)  
Society of Naval Architect and Marine Engineers (SONAME)

Observers: 2 representatives from the private stakeholders

Regular monthly meetings are being conducted by the Board, with the Legal Service as the Secretariat, and are also being attended by two (2) representatives from the private stakeholders as observers.

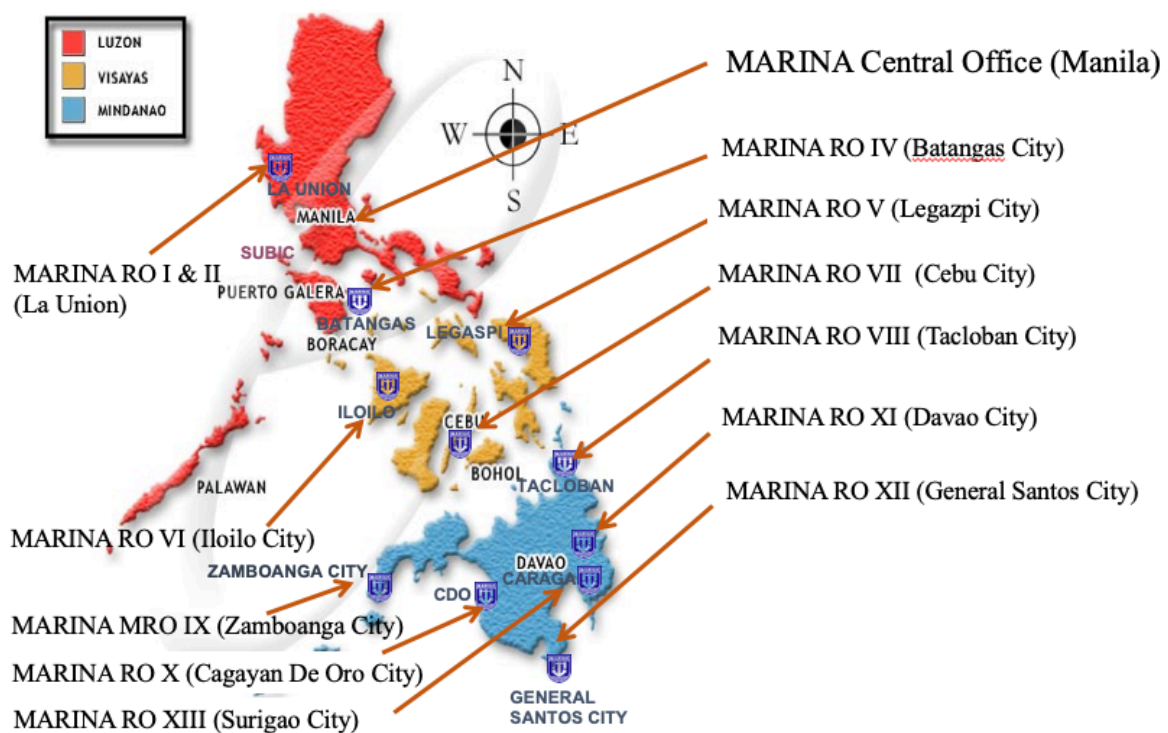


Figure 3. MARINA Offices in the Philippines

Source: MARINA-PPS, 2019

Figure 3 demonstrates the locations of the MARINA offices disseminated in the country. Aside from the MROs itself, there are also some extension offices for some of the MROs in order to entirely cover the extensive areas of their jurisdiction. In addition, there are also plans to create additional extension offices based on the urgency to cover far areas, considering the country's archipelagic setting and inherent maritime interest as a state (ie, planning to establish MARINA – National Capital Region).

As mentioned in the previous chapter, working in the operations side as industry specialists in the DSS and OSS, this paper will mainly deal with the Philippine foreign ship registry.

MARINA was created pursuant to Presidential Decree (PD) No. 474 (the Maritime Industry Decree of 1974) in order to integrate the development, promotion and regulation of the maritime industry in the country. MARINA has a crucial role in the promotion of the well-being, quality and competence of Filipino seafarers worldwide, the competitiveness of the Philippine ship registry and the implementation of obligations from international and regional maritime multilateral organizations.

Following the PD 474, MARINA has built on its mandates with the enactment of various laws and executive issuances.

By virtue of Executive Order No. 546 (1979), MARINA was attached to the then Ministry of Transportation and Communication (MOTC) for policy and program coordination.

Executive Order No. 1011 (1985) transferred the quasi-judicial functions relating to maritime transport from the then Board of Transportation (BOT) to MARINA.

Executive Order No. 125/125-A (1987) vested upon MARINA the functions of ship registration, ship safety regulation, and issuance of the Seafarer Identification and Record Book (SIRB) – commonly known as the “Seaman’s Book.”

Republic Act No. 9295 (2004) or “Domestic Shipping Development Act” provides for the modernization of domestic shipping and shipbuilding sectors and deregulation of the Philippine domestic shipping industry.

Republic Act No. 10635 (2014) established MARINA as the single maritime authority to give full and complete effect to the provisions of the 1978 International STCW Convention, as amended, through the transfer and assumptions of seafarer-related functions previously with the Professional Regulatory Commission (PRC), Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), Department of Health (DOH) and National Telecommunications Commission (NTC).

Last year, Executive Order No. 63 (2018) was issued by President Rodrigo R. Duterte to further strengthen the authority of MARINA as the Single Maritime Administration for the purpose of implementing the STCW Convention. This was done through a majority membership in the Technical Panel on Maritime Education (TPME) and lead role in the evaluation and monitoring of Bachelor of Science in Marine Transportation and Marine Engineering and other higher education programs with CHED, as well as the establishment of medical standards for issuance of certificates to and relevant control procedures governing Filipino seafarers with DOH and PCG.

In addition, as preparation for the 2021 IMO Member State Audit Scheme (IMSAS), it is MARINA's responsibility to ensure that the Philippines has met the standards and technical assistance required to enrich human resources in the industry and to be compliant with the following IMO instruments and conventions:

1. International Convention for the Safety of Life at Sea (SOLAS), 1974;
2. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973;
3. International Convention on Load Lines (LL), 1966;
4. Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972;
5. International Convention on Tonnage Measurement of Ships (TONNAGE), 1969; and,
6. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

As an agency dedicated to serve the people and the government, MARINA envisions to have a socio-economic impact through having an attractive Philippine ship registry, major center for ship building and ship repair, sustaining the development of globally competitive seafarers, and modern and vibrant domestic merchant fleet as part of a seamless transport system; a process to foster a globally competitive maritime industry, to provide wider and timely service to the clients strengthen stakeholders' ownership of maritime policies, programs and projects, to ensure compliance with safety and environmental standards; an organization with

sufficient manpower complement, enhancement of competency, motivation and values of personnel and development of an IT-enabled agency; and a rational budget process optimization and augmentation.

Simply put, the organization administers all ships, shipyards and seafarers in the country. Accordingly, there are four (4) maritime sectors, in which MARINA performs its developmental, regulatory and core functions:

1. Domestic shipping
2. ***Overseas shipping***
3. Ship building and ship repair
4. Maritime human resource

## ***2.2. Philippines' rank in the maritime industry***

### **2.2.1. Seafarers' supply**

The seafarer industry in the Philippines has continued to grow in recent years as it provided opportunities not only for seafarers, but also for shipping and manning agencies that supply crews onboard ships in the inter-island domestic and international routes. Table 3 shows the Philippines as the second largest supplier of seafarers in 2015 – 72,500 officers and 143,000 ratings, even surpassing China's rating supply, which contributes to a total of 13.08% of world share (UNCTAD, 2018).

Table 3

*Top 10 Seafarer Supply, 2015*

<i>Seafarer type</i>	Officers	Ratings	Total	Officers	Ratings	Total
<i>Economy</i>	<i>Absolute value</i>			<i>Percentage of total world</i>		
1. China	101,600	142,035	243,635	13.13	16.26	14.79
<b>2. Philippines</b>	72,500	143,000	<b>215,500</b>	9.37	16.37	<b>13.08</b>
3. Indonesia	51,237	92,465	143,702	6.62	10.59	8.72
4. Russia	47,972	49,089	97,061	6.20	5.62	5.89
5. India	69,908	16,176	86,084	9.03	1.85	5.23
6. Ukraine	39,000	30,000	69,000	5.04	3.43	4.19
7. Turkey	18,568	20,417	38,985	2.40	2.34	2.37
8. Malaysia	6,313	28,687	35,000	0.82	3.28	2.12
9. Italy	12,988	21,498	34,486	1.68	2.46	2.09
10. Norway	14,768	18,933	33,701	1.91	2.17	2.05

Note: Measures are in absolute value and in percentage of total world count

Source: UNCTAD, 2018

### 2.2.2. Shipbuilding

Table 4 shows the Philippines ranking as the fourth largest shipbuilding country in the world in 2017, after China, Korea and Japan (UNCTAD, 2018). Throughout the years, a number of local shipyards have gradually increased in building ships with larger capacities, especially those supplying ships in the world market, such as Keppel Philippines Marine, Inc., Tsuneishi Heavy Industries (Cebu), Inc., Subic Drydock, Herma and Philippine Iron Construction and Marine Works (MARINA, 2018).

Table 4

*Ships built by country of building, 2014-2017*

<i>Economy</i>	<i>Year</i>			
	2014	2015	2016	2017
1. China	35.89	37.24	33.49	36.04
2. Korea	34.36	35.00	38.12	34.42
3. Japan	21.04	19.00	20.01	19.96
<b>4. Philippines</b>	2.93	2.61	1.80	<b>3.01</b>
5. Romania	0.52	0.59	1.27	0.90
6. Taiwan	0.90	1.07	0.70	0.84
7. Germany	0.78	0.56	0.64	0.71
8. Italy	0.48	0.32	0.63	0.71
9. Brazil	0.37	0.59	0.26	0.57
10. Viet Nam	0.53	0.85	0.65	0.52

Note: Values are in percentage of total world count

Source: UNCTAD, 2018

### 2.2.3. Ship registry

Table 5 shows the ranking of countries based on total deadweight tonnage (UNCTAD, 2018). Panama is still on top of the list, having the world's largest ship register, followed by the Marshall Islands, Liberia, Hong Kong and Singapore.

The Philippines ranks as the 34th maritime country among the top 35 flag states of registration for 2018 (UNCTAD, 2018). Historically speaking, as illustrated by Figure 4, the Philippines used to have a higher total deadweight tonnage count; however, due to global competitiveness and strict regulations, its rank and the total deadweight tonnage has continued to decline throughout the years.

Table 5

*World merchant fleet by flag of registration, 2018*

<i>Country</i>	<i>Total Deadweight Tonnage</i>
1. Panama	335,888.08
2. Marshall Islands	237,826.14
3. Liberia	223,668.58
4. Hong Kong	181,488.12
5. Singapore	127,880.04
6. Malta	108,759.69
7. China	84,192.17
8. Bahamas	76,659.59
9. Greece	72,345.92
10. United Kingdom	44,039.51
11. Japan	37,536.13
12. Cyprus	34,848.64
13. Indonesia	22,313.29
14. Norway	21,635.28
15. Portugal	19,389.25
16. Denmark	18,626.72
17. India	18,481.57
18. Italy	15,090.86
19. Korea	14,426.62
20. Saudi Arabia	13,522.91
21. United States of America	12,045.13
22. Bermuda	10,612.01
23. Malaysia	10,230.54
24. Germany	9,936.69
25. Russian Federation	8,613.97
26. Antigua and Barbuda	8,579.00
27. Belgium	8,497.96
28. Viet Nam	8,176.98
29. Turkey	7,740.82
30. Netherlands	7,326.71
31. France	7,112.17
32. Thailand	6,212.67
33. Cayman Islands	6,155.79
<b>34. Philippines</b>	<b>5,683.99</b>
35. Kuwait	4,886.74
36. Brazil	4,826.32
37. Taiwan	4,681.64
38. Iran	4,176.29
39. Nigeria	3,717.10
40. Canada	3,459.72

Note: Values are measured in thousands

Source: UNCTAD, 2018

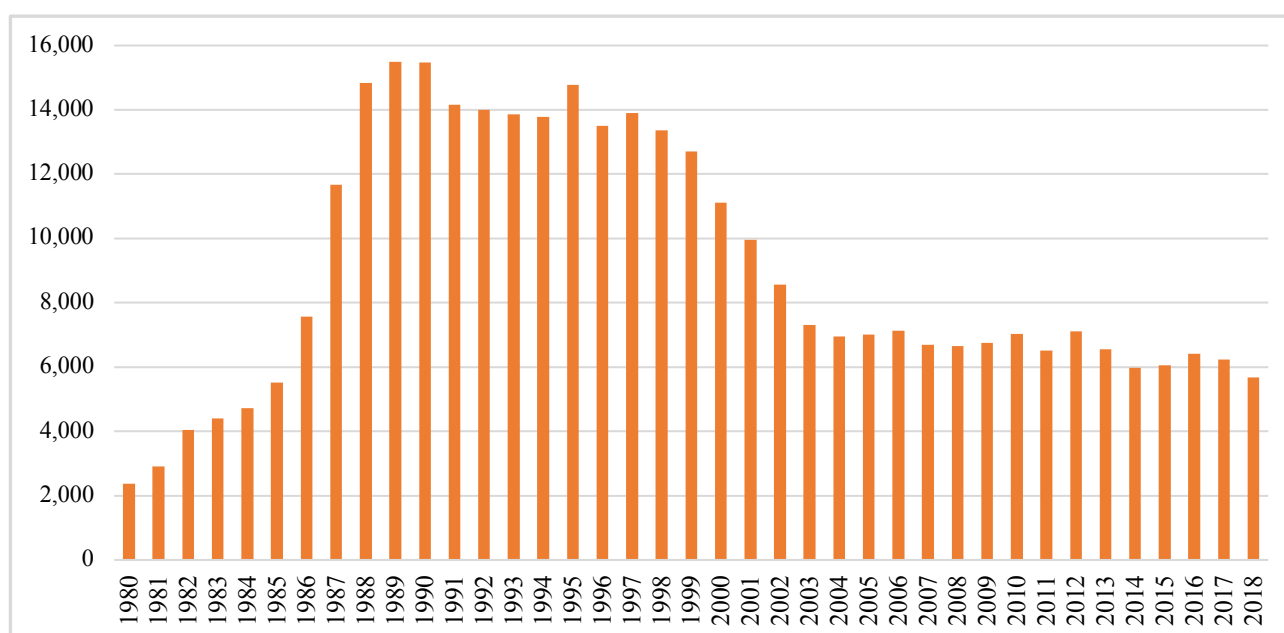


Figure 4. Total deadweight tonnage of the Philippine-registered ships, 1980-2018

Note: Values are measured in deadweight tonnage in thousands

Source: UNCTAD, 2018

With reference to Table 5, stating that the Philippines has a total deadweight tonnage of 5,683,990 for 2018, it can be noted that this figure represents both local and international ships.

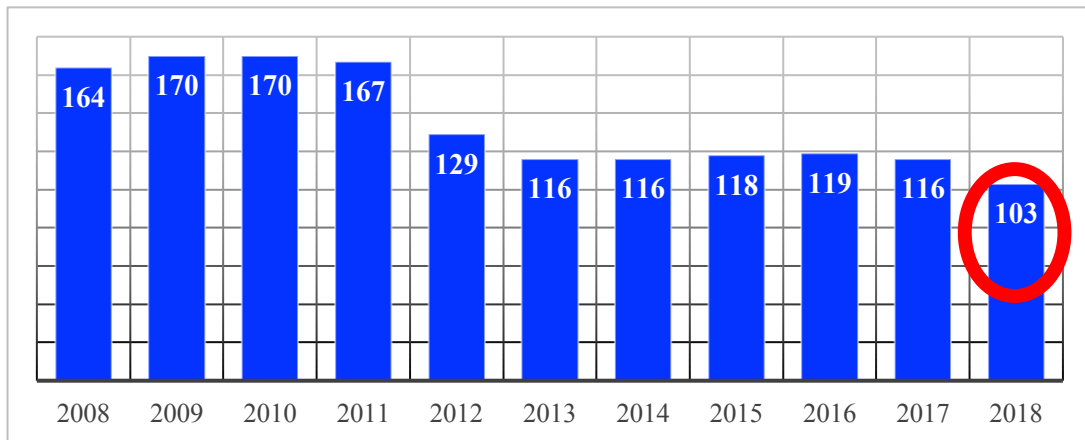
In keeping record of the ships registered in the country, MARINA separated the ship registry into overseas and domestic. Two service units handle the ship registry, as mentioned earlier – the OSS for overseas ships and the DSS for domestic ships.

As shown in Figure 5, the Philippine overseas registry for 2018 consisted of 103 ships with a total of 1,114,986 deadweight tonnage/2,080,568 gross tonnage with an average age of 6 years. However, in comparison with the figures from the past few years, it can be observed that the overseas registry has been constantly dwindling since its drastic decline from 2012 – from 167 ships to 129 ships.

Several efforts have been made by the OSS through public consultations, meetings and seminars to make its stakeholders (ship owners, ship operators,



crewing/manning agencies, ship agents, classification societies, recognized organizations, among others) aware of the subject matter.

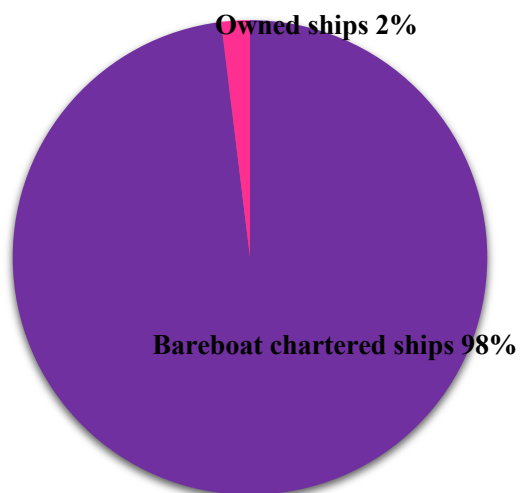


*Figure 5. Philippine-registered Overseas Fleet (as of December 2018)*

Note: Values are measured in absolute value

Source: MARINA-OSS, 2018

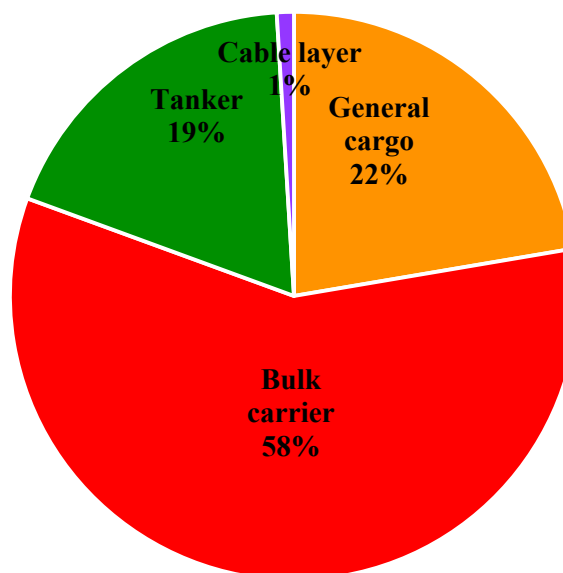
Out of the 103 registered ships in the overseas fleet, only 2% are owned and the rest are all bareboat chartered ships (as shown in Figure 6). These chartered ships contributed to a total of PHP 40,808,745.32 for 4.5% withholding tax due to the Bureau of Internal Revenue.



*Figure 6. Composition of Philippine-registered overseas fleet for 2018*

Source: MARINA-OSS, 2018

On the other hand, the bulk carriers and general cargo ships constitute 80% of the total overseas ships, while the remaining 20% is composed of tankers and cable layer ships, as shown in Figure 7.



*Figure 7. Philippine-registered overseas fleet by type of service*  
*Source: MARINA-OSS, 2018*

With the figures and data presented above, the OSS has been doing every effort and is determined to make the ship registry a competitive one in Asia. There has been numerous public consultations with the private sector, which are normally held twice annually, in order to update feedback, to gather relevant information on the maritime industry and to consolidate inputs coming from the private sector.

#### **2.4. Ship registration in the Philippines**

Basically, there are two (2) types of registration of ships in the Philippines,: permanent registration (importation) and temporary registration (bareboat charter).

##### **2.4.1. Permanent registration (importation)**

The governing laws/regulations for the permanent/importation of ships registration in the Philippines are listed below:

1. Republic Act No. 7471 (1992) – An Act to Promote the Development of Philippine Overseas Shipping;
2. Republic Act No. 9301 (2004) – An Act Amending Certain Provisions of RA 7471;
3. Implementing Rules and Regulations of RA 7471; and,
4. MARINA Circular No. 201 (2004) – Rules and Regulations to Implement RA 9301.

A maritime entity who wants to register its/their ship/s under the Philippine flag has to provide the following pre-approval requirements upon application:

1. Letter of application from applicant-company
2. Memorandum of Agreement (MOA)/Deed of Sale (DOS)/Bill of Sale (BOS)
3. Duly notarized Resolution of the company's Board of Directors, certified by the Board Secretary, authorizing the filing of the application and designating the officials/authorized representatives to present the applicant-company
4. Latest Certificate of Good Standing/Company Seal or Business Registration of the ship's registered owners showing its current list of Directors/Officers
5. Power of Attorney or Board Resolution authorizing the signatory to the MOA/DOS/BOS to act as such in behalf of the registered owner
6. Certificate of Ship's Original Registry/Nationality
7. General Arrangement Plan of the ship
8. Latest and valid Survey Report
9. For new building ships:
  - Class Certificate or equivalent Certificate
  - Builder's Certificate/Shipbuilding Contract, if no MOA/DOS is submitted
  - Certification from the classification society that the ship was constructed in accordance with the standards/rules and regulations of the classification society

Post-approval documents to be submitted, as applicable:

1. Certified true copy of the Protocol of Delivery and Acceptance

2. Original copy of Ship's Certificate of Deletion from former original flag of registry
3. Duly notarized/authenticated MOA/DOS/BOS
4. Duly notarized/authenticated Power of Attorney or Board Resolution authorizing the signatory to the MOA/DOS/BOS to act as such in behalf of the registered owner
5. Proof of payment with customs duties and taxes
6. Certificate of Authority issued by the Board of Investments (for company/ship availing of the incentives under

#### **2.4.2. Temporary registration (bareboat charter)**

The governing laws/regulations for the temporary registration/bareboat charter of ships registration in the Philippines are listed below:

1. Presidential Decree No. 760 (1975) – Allowing the Temporary Registration of Foreign-owned Vessels under Time Charter or Lease to Philippine Nationals for use in the Philippine Coastwise Trade subject to Certain Conditions
2. Presidential Decree No. 866 (1976) – Amending PD 760 by Reducing the Term of the Lease or Charter Period to not Less Than One Year, Deleting the word “Time” in the Title and Body of the Decree, and allowing Overseas Use in Certain Cases
3. Presidential Decree No. 1711 (1980) – Further amending PD 760, as amended, by Further Encouraging the Chartering of Specialized Ocean-going Vessels and by Extending the Effectivity of the Decree until 1999
4. Executive Order No. 667 (2007) – Extending Indefinitely the Effectivity of any Charter or Lease Contract pursuant to PD 760, as amended
5. Philippine Merchant Marine Rules and Regulations (1997)
6. MARINA Circular No. 181 (2003) – Rules in the Accreditation of Shipping Companies for purposes of Acquiring/Operating Philippine-registered Ships for International Voyages under Regulation XV of the PMMRR 1997
7. MARINA Circular No. 182 (2003) – Rules in the Acquisition of Ships under PD 760, as amended, and Providing Herewith the Implementing Rules under

## Chapter XV of the PMMRR 1997 on Registration, Documentation and Licensing of Ships for International Voyages

A maritime entity who wants to register its/their ship/s under the Philippine flag has to provide the following pre-approval requirements upon application:

1. Letter of application from applicant-company, including request for endorsement to the DFA for the issuance of PCPR, if necessary
2. Bareboat charter party, duly signed with names of the signatories printed
3. Assignment of Bank Deposit, if applicable
4. Duly notarized Resolution of the company's Board of Directors, certified by the Board Secretary, authorizing the filing of the application and designating the officials/authorized representatives to represent the applicant-company
5. Consent to the bareboat charter registration in the Philippine by the State of original registry
6. Certificate of Good Standing of the registered owners
7. Notarized Power of Attorney or Board Resolution authorizing the signatory to the bareboat charter party to act as such in behalf of the registered owners
8. Valid Certificate of Ship Registry
9. For new building ships:
  - Builder's Certificate
  - Certification from the classification society that the ship was constructed in accordance with the standards/rules and regulations of the classification society
10. Additional requirements for bareboat sub-charter applications:
  - Consent of the registered owners to the bareboat sub-charter arrangement
  - Power of Attorney or Board Resolution authorizing the person who issued the consent to act as such in behalf of the registered owner
  - Certificate of Good Standing
  - Certificate of Encumbrance/Non-encumbrance
  - In case the ship is encumbered, non-objection of the mortgage to the agreement

### **2.4.3. Incentives derived from ship registration in the Philippines**

Listed below are incentives derived from registering a ship under the Philippine flag:

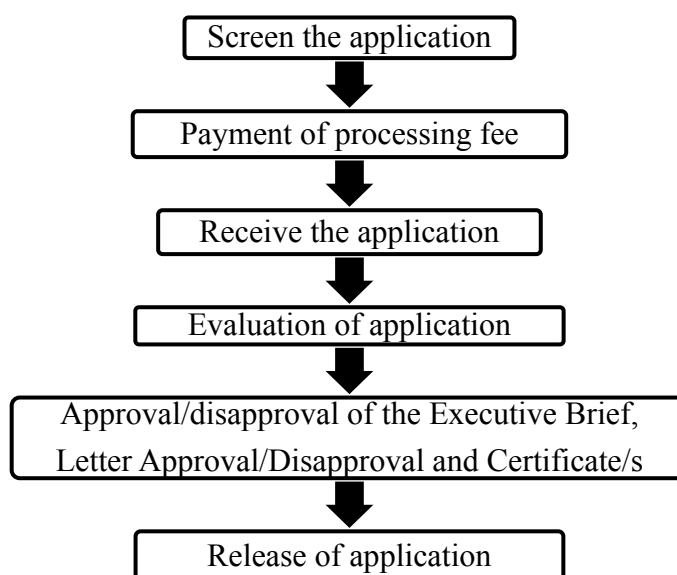
1. The step-by-step procedure for ship registration is simplified and the documentary requirements are already streamlined.
2. Provides answers on the issue of 'Flag of Convenience' due to strict implementation of maritime safety standards.
3. The ship is required to be fully manned by Filipino crew who are competent in performing their tasks and responsibilities onboard the ship and be properly documented, in conformity with the STCW Convention 1978, as amended.
4. The Philippines recognized foreign certificates of competency issued by other countries who have existing Memorandum of Agreement with other countries, as far as STCW Convention 1978, as amended, is concerned.
5. The safety and trading certificates are issued by Recognized Organizations (ROs), who are members of the International Association of Classification Societies (IACS), under a delegated authority.
6. There is no restriction on the age and size of the ship, provided that the said ship is classed and maintained by an internationally recognized classification society.
7. The Philippines is a responsible member of international organizations and regional maritime multilateral associations. As such, it is obliged to comply with the relevant conventions relating to the promotion and enhancement of maritime safety, security and protection of the marine environment.
8. The cost of ship registration in the Philippines is relatively inexpensive, compared to other flag states.
9. The Philippines, as a party to various bilateral merchant shipping agreements and regional cooperational agreements, has an access to other international partners in the community.
10. Exemption from import duties and taxes for:
  - Ships for registration under the Philippine flag; and,
  - Spare parts for repair and/or overhaul of ships.
11. Exemption from payment of income tax, pursuant to Republic Act. No. 9301

12. Issuance of Executive Order No. 75 designating the then Department of Transportation and Communications (DOTC), through the MARINA, as the “Single Administration” in the Philippines responsible for the oversight in the implementation of the STCW Convention 1978, as amended.
13. Issuance of Republic Act. No. 10635 (2014) entitled “An Act Establishing the Maritime Industry Authority (MARINA) as the Single Maritime Administration responsible for the Implementation and Enforcement of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended, and International Agreements or Covenants Related Thereto”

#### **2.4.4. Application steps and corresponding processing fees**

This section primarily deals with the process to be followed by the applicant/s upon arrival to MARINA. It should be noted that there is no computerized and online system application available yet; however, MARINA is doing everything possible to improve services they are rendering to their clients.

Figure 8 shows the procedure in the point of view of the application, itself – where it goes from the moment it was received, evaluated and given verdict, and until it is released to the applicant.



*Figure 8. Flowchart of application process*

*Source: MARINA-OSS, 2018*

Table 6

*Step-by-step process of application*

General Process	Responsible person/s	Procedures	Form/s & records used
1. Screen the application	Officer of the Day (OTD)	<ul style="list-style-type: none"> <li>➤ Checks the completeness and screens the validity of documentary requirements using the checklist of documentary requirements.</li> <li>➤ If complete, issues the Authority to Accept Payment (ATAP) to the applicant.</li> <li>➤ If not complete, returns the application</li> </ul>	<ul style="list-style-type: none"> <li>➤ Checklist of documentary requirements</li> <li>➤ ATAP</li> </ul>
2. Payment of processing fee	Applicant	➤ Pays the processing fee to the Cashier.	➤ ATAP
	Cashier	➤ Receives payment from the applicant based on ATAP, issues Official Receipt (OR) and advises Applicant to proceed to Central Records Unit (CRU)	➤ OR
3. Receive the application	Applicant	➤ Submits the application to CRU together with the ATAP reflecting the OR number and validation of the Cashier.	<ul style="list-style-type: none"> <li>➤ Application</li> <li>➤ Validated ATAP</li> </ul>
	CRU	<ul style="list-style-type: none"> <li>➤ Receives the application and attaches D-tracking.</li> <li>➤ Returns the duly stamped receiving copy to the Applicant.</li> <li>➤ Forwards the application to OSS</li> </ul>	➤ D-tracks
	Secretary/ Administrative Assistant III	➤ Receives the application, logs in the logbook, D-tracks, attaches the index card of assignment and	<ul style="list-style-type: none"> <li>➤ Logbook of application</li> <li>➤ Index card of assignment</li> </ul>



General Process	Responsible person/s	Procedures	Form/s & records used
		forwards to the Chief Analyst	
4. Evaluate the application	Chief Analyst	➤ Records the name of the Evaluator in the assignment logbook and assigns the application to the Evaluator	➤ Logbook of application ➤ Index card of assignment
	Evaluator	<ul style="list-style-type: none"> <li>➤ Evaluates the application</li> <li>➤ If compliant, prepares the Executive Brief, Letter Approval and Certificate/s; and submits to Chief Analyst for review</li> <li>➤ If not compliant, prepares the Executive Brief and Letter Disapproval; and submits to the Chief Analyst for review</li> </ul>	<ul style="list-style-type: none"> <li>➤ Draft Executive Brief</li> <li>➤ Draft Letter Approval/ Disapproval</li> <li>➤ Draft Certificate/s</li> <li>➤ Draft Disposition Form</li> </ul>
	Chief Analyst	<ul style="list-style-type: none"> <li>➤ Reviews documents, draft Executive Brief, draft Letter Approval/ Disapproval and Certificate/s</li> <li>➤ If the evaluation is accurate, instructs the Evaluator to finalize the draft Executive Brief, draft Letter Approval/ Disapproval and Certificate/s</li> <li>➤ If there is an inaccuracy in the evaluation, returns to the Evaluator to rectify the inaccuracy and prepares the draft Executive Brief and draft Letter Approval/ Disapproval</li> </ul>	

General Process	Responsible person/s	Procedures	Form/s & records used
	Evaluator	➤ Finalizes draft Executive Brief, draft Letter Approval/Disapproval and Certificate/s	
	Chief Analyst	➤ Signs the Executive Brief, affixes initial to the Letter Approval/Disapproval and Certificate/s; and forwards to the Director	
5. Approval/disapproval of the Executive Brief, Letter Approval/Disapproval	Director	➤ Verifies the accuracy of the evaluation, signs the Executive Brief, affixes initial on the Letter Approval/Disapproval and attests the Certificate/s. ➤ Otherwise, returns to the Chief Analyst for rectification of errors.	➤ Executive Brief ➤ Letter Approval/Disapproval ➤ Certificate/s ➤ Disposition Form
	Secretary/ Administrative Assistant III	➤ Logs out the application, D-tracks and forwards to the Office of the Deputy Administrator for Operations (ODAO).	
	ODAO	➤ Affixes initial on the Letter Approval/Disapproval and on the Certificate/s; forwards to the Office of the Administrator (OAdm). ➤ Otherwise, returns to OSS for rectification of error/s	
	OAdm	➤ Signs the Letter Approval/Disapproval and approves the Certificate/s; forwards to CRU ➤ Otherwise, returns to OSS for rectification of error/s	
6. Release of application	CRU	➤ Receives the application from the OAdm and logs in	➤ Executive Brief

General Process	Responsible person/s	Procedures	Form/s & records used
		the application, D-tracks and affixes dry seal on the Letter Approval/Disapproval and Certificate/s.	<ul style="list-style-type: none"> <li>➤ Letter Approval/Disapproval</li> <li>➤ Certificate/s</li> <li>➤ Disposition Form</li> </ul>
	Applicant	<ul style="list-style-type: none"> <li>➤ Signs the logbook and the duplicate copy of the Letter Approval/Disapproval</li> <li>➤ Receives the signed Letter Approval/Disapproval and Certificate/s</li> </ul>	<ul style="list-style-type: none"> <li>➤ Letter Approval/Disapproval</li> <li>➤ Certificate/s</li> </ul>
Standard Processing Time: 3 days			

Note: This is part of the OSS Quality Standard Procedures Manual in compliance with ISO  
Source: *MARINA-OSS, 2018*

Table 6 shows the details of how a simple application goes around in a routinely practice in the MARINA; however, if an application or query is more complex, it would require more time for evaluation since it might go through referrals and discussions with service units concerned who are more knowledgeable on certain topics.

### ***2.5. Top five (5) countries with leading merchant fleets***

As mentioned previously, Table 7 shows the top flag states with the greatest number of ships registered in terms of deadweight tonnage with their managing companies and incentives (UNCTAD, 2018):

*Table 7*

Top flag states and their incentives

<i>Country</i>	<i>Managing company and their incentives</i>
Panama	<b>Panama Maritime Authority</b> Fleets with 5-50 ships can have less 20%-65% on registry fees
Marshall Islands	<b>International Registries, Inc. and its Affiliates</b> Discount of 1/3 off the initial registration fee will be available to owners provided that:

<i>Country</i>	<i>Managing company and their incentives</i>
	<ol style="list-style-type: none"> <li>1. Registration of a ship that is five (5) years of age or less from date of first construction or that has undergone a major conversion within the past five (5) years</li> <li>2. Registration of three (3) or more ships at the same time that are fifteen (15) years of age or less at least an irrevocable written commitment to register three (3) or more such vessels within a calendar year</li> <li>3. Discount will be increased to 50% for an owner registering ten (10) or more vessels that re fifteen (15) years of age or less at the same time or submitting an irrevocable written commitment to register ten (10) or more such vessels within a calendar year</li> </ol>
Liberia	<b>Liberian International Ship &amp; Corporate Registry</b> Taxes on operations and profit are not assessed.
Hong Kong	<b>Government of Hong Kong Special Administrative Region (Marine Department)</b> Annual tonnage charge reduction scheme For every two (2) years that a ship is continuously registered with and provided that the ship has no detention record under any port state control (PSC) regime during such period, the registered owner of the ship will be able to enjoy a six-month annual tonnage charge reduction for the following year. Income derived from the international operation of Hong Kong registered ships is exempted from profits tax
Singapore	<b>Maritime and Port Authority of Singapore</b> Profits derived from ship operations are exempted from income taxes.

*Source: PMA, IRIA, LISCR, GHKSAR and MPA, 2018*

## ***2.6. Previous research relevant to ship registration***

### **2.6.1. Ship Registration: A Critical Analysis**

This is a dissertation written by Rhea Rogers in 2010, who is a graduate of Master of Science in Maritime Affairs specializing in Maritime Law and Policy from World Maritime University (WMU). The paper gave an in-depth analysis of the system of ship registration in the world, giving an insight into the history of registration, how

it evolved and an analysis to the current world order and system of registration (Rogers & Donner, 2013). It provides a clear view of the system of registration of ships and the policies of the countries that engaged in that system, which can serve as a guide to those unfamiliar to the process of ship registry.

It can serve as a point of reference or introduction to ship registry in itself, as it provides a detailed and meticulous explanation of ship registry, as well as an overview of the current trends in the system of country registry. The paper supports well this research paper, as the analysis provides a clear introduction to registry, and further, the conclusion of the paper connotes a recommendation that countries must have a ‘hybrid registry’ of open and closed system, which has been taken into consideration in this research paper.

#### **2.6.2. A legal analysis related to the implementation of the National Logistics Strategy 2030 of Panama**

The analysis was made by Gustavo Adolfo Mejía Jované, Master of Science in Maritime Affairs specializing in Maritime Law & Policy, also from WMU. In his paper, he provided a proper backdrop and stage for this research paper, as part of the analysis would be a similar national strategy in the Philippines. The paper makes a detailed study on the national logistics strategy of Panama, including the necessary legal framework, the planning and strategizing for a long period maritime program for a top tier registry country (Mejía Jované & Romero, 2018).

With the Philippines having its own very similar strategy program entitled MIDP, part of which focuses on this research paper’s goal of creating a marketing program the Philippine ship registry, the paper provides a background on a national strategy that has been continuously updated and successful, and can provide a model for the Philippine’s strategy in terms of growth and implementation.

The recommendations of the paper to maintain the programs despite leadership changes, inclusions of the private sector in a public-private accord, as well as the conduction of series of seminars to prepare the affected sectors for the implementation of the program are all valuable and applicable to the Philippines’ own strategy program.

### **2.6.3. The need for co-operation among maritime administrations of open registry countries**

The focus on cooperation among states of open registry countries is the highlight of the paper by Joseph Musa. It is indeed a different take into the flag state registration debate. As most would see the relationship of flag states registration as competitive or combative in the race to register the world's ships, the paper connotes the need for cooperation and the setting of standards for open registry countries (Musa & Sampson, n.d.).

As the title suggests, open registry countries need to employ certain standards and cooperation in its ranks, in which the paper recommends such actions. Despite IMO's goals of implementing a system which would police states and rank them as regards to their role as flag state administration, individual states must make steps and the leading flag states registries must take the leading role and cudgels as they have more stake in the matter.

With intense competition being the norm and the focus, the concept of cooperation in a period when most flag states would rather remain closed to protect erosions of their registry is novel. The Philippines, being a part of the ASEAN and other multi-lateral international organizations, would bode well to have cooperative dialogue as suggested by the paper in its maritime administration to improve its open registry system to attract more registrants.

### **2.6.4. Competitive nature of ship registration and its impact on Liberia**

Given the fact that competition between states on different levels is less pronounced but nonetheless intense is highlighted, with the focus on ship registration as Liberia aims to protect its place as a top flag ship registry country (Dogba-Yassah, n.d.). The ship registration is a revenue-earning industry for any country and Liberia has an extensive experience in this field which can be shown in its success as a top tier

nation. This success has likewise made Liberia into a powerhouse in terms of representation in international shipping.

However, the success of Liberia inspires other nations to aspire to reach its rank, and competition for ship registration occurs. The paper focuses on the role competition has played on ship registration, as well as the modes and methods applied by Liberia to protect its ranks, from economic to administrative, easing restriction and economic costs. While Liberia has been largely successful, the pressure on its governance and stature as a flag state is strained.

The Philippines' aim to increase its flag state registry is likewise in similar fashion, and is intended to compete with countries like Liberia for ship registration. Avoiding the pitfalls and finding the balance between economic and administrative remedies as the paper recommends is essential in the findings of this research paper.

#### **2.6.5. Considerations towards the employment of national seafarers on open registry ships: A Study of Liberia**

Liberia as a leading flag state ship registry has attempted to leverage this benefit in the field of maritime manpower by implementing an employment policy of national seafarers. This paper explores this idea and the experience of Liberia, and the overall concept of state administration mandating that ships under their registry employ seafarers of the same state (Moore & Monsef, n.d.).

To be sure, the concept is not new. In fact, part of the main reason for the use of foreign flag state registry in the first place is to skirt labor laws of home states of ship owners and in the process hire maritime manpower from other states which demand lower wages. With the introduction of standardized wages, foreign flag states with open registry offer ship owners the ability to hire crews of their choosing, thus giving ship owners more freedom and leverage.

Liberia, with its leading role, aims to use divert its prominence in one sector to benefit its maritime manpower section. While this has benefitted the employment of Liberian seafarers, a balance must be made as Liberia is not a traditional source of maritime manpower. As the paper suggests, the trade of and potential erosion of the registry could be a result of the policy.

The Philippines is in a similar position, as ship registration under its flag must employ Filipino seafarers. The analysis aids this research paper, as the same policy is in play, but adding the factor that the Philippines is a major supplier of maritime manpower in the world. The policy will likely be beneficial in the Philippines, while avoiding the pitfalls found in Liberia.

#### **2.6.6. Panama: Why an open registry?**

Panama is the top flag registry of the world's ships for several years, and it is attributed to their open registry system. The paper by Sabina Gonzales Solis, who also graduated from WMU, looks at the reason for the open registry of Panama and the Panamanian system which has made it into a successful flag state. The role that Panama has played as an open registry system as contrasted to other states which have closed, partial or hybrid system makes for an interplay analysis, with the benefits and cost analysis clear to see (Gonzales Solis & Monsef, 1987).

The Philippine registry system, which like Panama is also open, has very parallel similarities with Panama, including administration and support, as well as other auxiliary similarities in terms of governance, system and broader leanings in terms of state and economy. However, the fact that Panama is a top tier state in ship registration, while the Philippines is far away from the list, makes for a compelling comparison for what Panama succeeded in attracting ships in its registry. Further, with the same open registry system, the paper is essential in seeing dichotomies between the two registry systems.

#### **2.6.7. Liberia as a maritime flag state and its economic impact**

The paper by A. Lamii Kromah, who also graduated from WMU, analyzes Liberia in its role as an emerging maritime flag state, discussing its beginnings as well as its development into a top tier leading flag state. His paper focused on the economic aspect that the ship registry has brought to Liberia as a clear indication of the main motivation of flag state countries. This has direct correlation to the initiatives of states



to market and develop their flag states to foreign ship owners (Kromah & Monsef, n.d.).

His paper has a direct impact on this research paper, as the Philippines aims to market itself to ship owners as a flag state of choice, and the experience of Liberia, the benefits as well as the unlikely consequences, makes for a compelling comparison. Liberia is one of the top tier countries in ship registration, and the detailed recommendation on how it has reached this lofty perch serves as a possible model for the Philippine administration to employ.

#### **2.6.8. Maintaining Liberia's position as the leader in registration tonnage in the face of strong international open registry competition**

Similar to the earlier works, the paper by Samuel Alahdemah Kanasuah proposes strategies and programs to maintain and improve the position of Liberia as a top tier foreign ship flag ship registry country. The approach maintains the importance of the registry to Liberia's economy, and acknowledges the strong desire of other states and the direct competition posed by those states to match the incentives that make Liberia a choice for ship owners as a registry of choice (Kanasuah, n.d.).

The recommendations proposed constant improvement and development of the registry, as well as the trade-off of balancing the interest of the state administration as opposed to the interest of the individual ship owners and even bareboat charterers, to even the development of the maritime manpower of Liberia. It aims to lift the sector through its high ship registry are directly proportional to the experience of the Philippines in the development of its registry, and to this research in analyzing a marketing strategy to the Philippine registry. The international competition met by the Liberian registry and how it is able to fend it off is the same as the Philippines, and the recommendations are not only applicable, but likewise adaptable to the Philippine context that is being explored.

#### **2.6.9. Open ship registry: Its implications for Ghana's maritime administration**

The question of which ship registry to implement, and which mode, be it the open, closed, mixed or the more recent and publicized high breed system, has been a question to most states and state administrations which aim to develop a strategy to improve their systems of registration (Anam, n.d.).

With state administration aiming to improve the size of their ship registry, the call to an open ship registry has always been an alluring prospect, but it is not without consequence. The paper by Anam focusing on Ghana's experience in the application of an open ship registry allows for an analysis of the system to a relatively new state administration, which aims to capture a slice of the foreign ship registry market. Buoyed by the success of its neighboring state of Liberia, Ghana has toyed with the idea of open registry, and has mixed results for the country.

With questions as to which mode of registry to apply, and with other papers suggesting a more radical approach of a hybrid system, the application of an open registry in Ghana bodes well in the same circumstance with the Philippines, which is the topic of this research. The experience of both Ghana and the Philippines with an open system makes for an interesting dichotomy of two emerging economies hoping to grow another sector of their maritime economy, and the implications for Ghana is likewise similar to the Philippines.

#### **2.6.10. The open registry question of seafarer wages and employment conditions and the position of the ITF**

The ITF has been leading the way in the improvement and the standardization of maritime manpower and labor, and the application of the open registry system has had an impact on the system of employment of maritime workers (Ebadot, n.d.). It has been argued that one of the main reasons for the proliferation of open registry systems is to skirt the strict labor standard of some flag state administration, and essentially, these open registry flag states can allow ship owners to hire crews of different nationalities which can entail lower costs.

The paper and the subsequent position of the ITF on the matter is of vital importance and application, especially to the Philippines, which has a strong force in the international maritime labor market. Focusing on the Philippines, and the effect of the open registry system to the vital maritime manpower sector of the Philippines, the ITF position is shared by the Philippines in maintaining labor standards and the strong implementation of these standards by the IMO and the individual flag state authorities that operate these open registries.

The Philippines employing an open registry that likewise mandates a Filipino crew can be a marketing strategy that improves safety and standard, and adhering to the position of ITF as laid out in this paper.

#### **2.6.11. Market Survey of the Panama Ship Registry**

In this paper written in the Spanish language by Beatriz González and Leonel Medina for the Maritime Authority of Panama, they discussed a formulation of a marketing strategy for the ship registry of Panama, as well as steps to implement said market strategy, including necessary laws and administrative remedies. The paper provides a clear picture of the Panamanian system of implementing its registry strategy, as well as those of its closest rivals in the top tier of flag state registry countries (González & Medina, 2019).

The data analysis paints a clear picture of the levels of the different flag states and the critical analysis of the advantages and disadvantages of Panama as opposed to other registry flag states provide a point of contention on the necessity to balance the interests of the state as to the interest of the individual ship owners.

Its analysis and recommendations provide a valuable insight, as well as worthy consideration, for this research paper in regard to best practices and goals, while highlighting the differing roles and agendas of each state in regard to their implementation of flag state goals, strategies and agenda.

### 3. LEGAL REGIME

The regime in the Philippines consists of legal systems and a series of laws and orders which implement and essentially run the ship registration of the Philippines. It is important to ensure that there are sufficient laws, which are the backbone of any policy framework, that support a government administration. This section of the research paper looks at the series of laws in the Philippine setting. It should be noted though that some of these laws are directed towards business concerns and interests, like benefits and incentives for investments, which can be considered more towards business than policy framework.

The legal system in the Philippines essentially comes from its forbearance as a former Spanish and American colonial state, as can be seen its legacy of having a strong written constitution from the Americans and the application of a civil code patterned after the Spanish civil code. The Philippines is a democratic republican state, with a three branches government system – divided into the executive, legislature and judicial branches, which has oversight on the functions of each branch. Essentially, the laws emanate from the legislature, to be implemented by the executive, and the judicial branch interprets those laws in case of doubts or conflict.

Currently, the Philippine legal procedure dealing primarily with the maritime sector is based on laws, regulations and memorandum circulars. The laws which applies comes primarily from the legislature of the Philippines, which consists of two (2) chambers which passes laws, as well as approving international agreements like those from the IMO. There are some laws under Presidential Decrees, which are executive mandates but have the effect of law.

#### *From the executive branch of government*

Based on these laws, implementing rules and regulations (IRRs), are passed, and are in turn made into memorandum circulars or regulations. These are essentially the operating actions of the laws, and are made by the maritime agency, in this case, MARINA. MARINA, the main maritime administration in the Philippines, is under the executive department under the DOTr and is mainly an administrative agency and is working with other branches of the maritime sector, like the Philippine Coast Guard,

which effectively is the policing arm of the state in regards to local maritime and port state administration.

In any flag state administration, the proper laws and the application of those laws are necessary in order to implement a maritime strategy. It is part of the MIDP that there are proper laws in place to ensure that the maritime strategy works. The existing laws of the Philippines in regard to the ship registration and flag state operation for ship registry is listed, and it ensures that the administrative side of ship registration has a legal backing and is properly laid down.

### ***3.1. Review of existing regulations, laws and memorandum circulars***

#### **3.1.1. Presidential Decrees (PD)**

Presidential Decrees are orders of the executive branch that have the effect of law in the Philippines, essentially a form of executive legislation. There was a period in the Philippine system when the executive branch was able to issue orders under the PD system, which has the effects of laws. These orders, which emanate from the 1980s and are still in force in some form today, shows that there is a strong interest in developing the industry, particularly ship registration by adopting the administration that supports it. The essential PDs relating to the maritime sector are as follows:

1. PD 474 – Providing for the Reorganization of Maritime Functions in the Philippines, creating the Maritime Industry Authority and for other Purposes
  - This law created MARINA and consolidates the functions and administration of all maritime related matters under one agency to better focus administration and control over maritime concerns
2. PD 760 – Allowing the Temporary Registration of Foreign-owned Vessels under Time Charter or Lease to Philippine Nationals for use in the Philippine Coastwise Trade subject to Certain Conditions
  - A commercial legislative tool which was meant to increase the registry for local ships and shows the strong economic drive for local shipping in the Philippines.

3. PD 761 – Amending Section 806 of the Tariff and Customs Code of the Philippines, as amended, by allowing the Registration of Vessels the Ownership of which is vested in Corporations or Associations, at Least Sixty Percent of the Capital Stock or Capital of which belong to Citizens of the Philippines and for other Purposes
  - Its application vests in maritime related corporations the right to register ships in their own name and the participation of foreign capital in these corporations, with the majority still being owned by Filipinos
4. PD 866 – Amending PD 760 by Reducing the Term of the Lease or Charter Period to not Less Than One Year, Deleting the word “Time” in the Title and Body of the Decree, and allowing Overseas Use in Certain Cases
  - The concern for time charter regulations was addressed with PD 866, and allowing local ships to ply overseas routes in order to take part in global shipping endeavors.
5. PD 1711 – Further amending PD 760, as amended, by Further Encouraging the Chartering of Specialized Ocean-going Vessels and by Extending the Effectivity of the Decree until 1999
  - Amending PD 866, chartering ships as a means to increase the registry is further encouraged as a mode of providing the Philippines with the needed ships to join the global shipping trade

### **3.1.2. Executive Orders (EO)**

Executive Orders are from the executive branch of the government, and are essentially forms of administrative order which organize the government under the executive branch and its function. As in most republican states, the executive branch is the widest of the branches in government, and the EO is a mode to mold the bureaucracy and implement measures within this vast branch. The EO comes from the power of the executive to move the bureaucracy, but does not have force of law. The essential EOs relating to the maritime sector are as follows:

1. EO 125 – Reorganizing the Ministry of Transportation and Communications Defining its Powers and Function, and other Purposes

2. EO 125-A – Amending EO 125 entitled “Reorganizing the Ministry of Transportation and Communications Defining its Powers and Function, and other Purposes”
  - These twin laws essentially organizes the Department of Transportation which is the mother agency of MARINA.
3. EO 438 – Extending the Effectivity of any Charter or Lease Contract pursuant to PD 760, as amended
4. EO 667 – Extending Indefinitely the Effectivity of any Charter or Lease Contract pursuant to PD 760, as amended
  - These above-mentioned EOs, related to each other, affect the nature of charter of ships in the Philippines.

### **3.1.3. Republic Acts (RA)**

Republic Acts are effectively the laws passed by the legislature of the country, formed by two houses of congress which enact versions of laws, which are then combined to form the RAs. These laws give state policy and authorize the executive to enact said policies through its administrative arms. The essential RAs relating to the maritime sector are as follows:

1. RA 7471 – Philippine Overseas Shipping Development Act
  - The main law that encourages Philippine corporations to engage in international shipping, which likewise provides for incentives for the acquisition of ships to improve the ship registry.
2. RA 9295 – An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, ordaining Reforms in Government Policies towards Shipping in the Philippines and for other Purposes
  - A measure to provide support and incentives to the ship building and ship services sector of the Philippines, which resulted in the gains of the Philippines in ship building and an increase in the local ship registry.

3. RA 9301 – An Act amending Certain Provisions of RA 7471 entitled “An Act to Promote the Development of Philippine Overseas Shipping” and for other Purposes
  - A law that expanded the benefits of RA 7471, allowing for greater incentives in the acquisition of ships and ship parts, to better allow for local corporations to acquire capital intensive ships and join the global shipping industry.
4. RA 9485 – An Act to Improve Efficiency in the Delivery of Government Service to the Public by Reducing Bureaucratic Red Tape, Preventing Graft and Corruption, and providing Penalties therefor (Anti-Red Tape Act of 2007)
  - An overarching law to reduce red tape in bureaucratic and administrative agencies, which resulted in the implementation of better handling and processing time in the maritime sector, including the shortening of time for the registration of ships, the reduction of required documentation, and the standardization of procedures, and which partially led to the implementation of the National Single Window.
5. RA 10635 – An Act Establishing the Maritime Industry Authority (MARINA) as the Single Maritime Administration responsible for the Implementation and Enforcement of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended, and International Agreements or Covenants Related Thereto
  - To strengthen MARINA and the maritime administration in the country, this law was passed to transfer all maritime-related industry in the Philippines, including the education aspect, to MARINA.

#### **3.1.4. MARINA Circulars (MC)**

MARINA Circulars are similar to memorandum circulars and are essentially the application and implementing rules and regulations of laws. The laws interpreted by the state administrative arms from powers given by congress. MARINA, as the sole authority on maritime matters, releases these MCs which act as regulations on



maritime matters, including ship registration. The essential MCs relating to the maritime sector are as follows:

1. Philippine Merchant Marine Rules and Regulations, 1997
2. MC 137 – Amendment to Chapter XVII of the Philippine Merchant Marine Rules and Regulations (PMMRR) 1997 on Minimum Safe Manning for Seagoing Ships In International Trade
  - These twin related regulations implement merchant marine rules and standardize safe practices on international ships under the Philippine flag.
3. MC 181 – Rules in the Accreditation of Shipping Companies for purposes of Acquiring/Operating Philippine-registered Ships for International Voyages under Regulation XV of the PMMRR 1997
  - The regulation requires the registration with MARINA of all maritime corporations that are involved in international maritime shipping, to enhance supervision of the flag state administration.
4. MC 182 – Rules in the Acquisition of Ships under PD 760, as amended, and Providing Herewith the Implementing Rules under Chapter XV of the PMMRR 1997 on Registration, Documentation and Licensing of Ships for International Voyages
  - Regulates and standardizes the necessary documents for the registration of ships under the Philippine flag state
5. MC 186 – Rules on the Accreditation of Maritime Enterprises
  - Maritime enterprises or corporations involved in the maritime trade are mandated to be accredited or registered with MARINA, to further oversight and maintain state control over ship management and ownership
6. MC 200 – Rules on the Issuance and Maintenance of Continuous Synopsis Record for Philippine-registered Ships Engaged in International Voyages
  - The maintenance of ship records in the form of ship synopsis is made mandatory by MARINA to increase oversight over the ships in the registry.
7. MC 201 – Rules and Regulations to Implement RA 9301 “An Act amending Certain Provisions of RA 7471 entitled “An Act to Promote the Development of Philippine Overseas Shipping” and for other Purposes”

- Applying the benefits of RA7471, MC 201 makes the benefits of the law applicable to the maritime corporations by implementing the law.
8. MC 2012-01 – Amending MC 182 on the Rules in the Acquisition of Ships under PD 760, as amended, specifically on Bond Requirements
    - Ship acquisition is made more accessible with the regularization and easement of the bond requirements.
  9. MC 2015-01 – Amended Rules in the Acquisition of Ships under PD 760, as amended, and Providing Herewith the Implementing Rules under Chapter XV of the 1997 PMMRR on Registration, Documentation and Licensing of Ships for International Voyages
    - More reforms are implemented in the acquisition of ships, with the better implementation and the standardization of ship documents needed for the registration under the Philippine flag.
  10. MC 2018-03 – Amendments to MC 137 on the Minimum Safe Manning for Seagoing Ships in International Trade
    - The international safety standards for overseas ships are mandated and internalize in an MC issued by MARINA.
  11. MC OS-2019-01 – Further amendment of MC 182 on the Rules in the Acquisition of Ships under Presidential Decree (PD) 760, as amended
    - Ship acquisition under the older PD law is internalized under MARINA regulations and updated and regularized.
  12. MC OS-2019-02 – Rules in the Registration and Documentation for Permanent Conversion of Ships trading status from Domestic to Overseas Trade
    - The practice of ship conversion has been recognized and is intended to be regularized by the adoption of proper documentation in any changes in ships that will be converted from domestic to international use.

### **3.1.5. PEZA laws and tax incentives for business**

Shipping enterprises or corporations related to maritime businesses are given preferential treatment in the importation of ships and ship parts, based on the various laws as stated above. MARINA, likewise, has implemented circulars and orders

implementing the facilitation of those tax benefits for the importation of ships and ship parts which directly benefit the ship registry.

On another level, the Philippine Economic Zone Authority (PEZA) is a government agency which allocates economic incentives and benefits to foreign investors in the Philippine economy located in specific economic zones inside the Philippines. Part of the efforts of policy reform is to include shipping and ship registration in the benefits towards PEZA incentives, by allowing for benefits in the ship building, ship repair system and ship conversion facilities all over the country, which makes it more affordable to purchase ships and thus, improve the registry.

### **3.1.6. Adoption of the Maritime Industry Development Plan (MIDP)**

Part of the administrative and policy framework which addresses the issues of the Philippine ship registry is being addressed by the MIDP.

The MIDP is an industry wide planning initiative of MARINA made in 2018 which seeks to develop the maritime industry in the Philippines within a ten-year period. The creation of an industry plan is mandated in the law which created the MARINA, PD 474 as indicated above, which stated that MARINA is tasked to create an industry wide program to develop the maritime sector. Despite the law being passed in 1974, this is the first time that MARINA has formulated and officially released an industry plan as mandated by law.

The MIDP was produced through an internal process in MARINA which includes all thirteen (13) 'services' or units of MARINA, including the OSS which handles foreign or overseas flag state registration, mandating consultations and dialogues with the related maritime industry partners and practitioners and stakeholders and participation in workshops in order to learn the concerns and issues, as well as potential areas of growth, improvement and cooperation. These dialogues were under an 'industry road mapping workshop', which produces documents that are then analyzed by each service to identify the markers for planning of each concern. The Planning and Policy Service was then able to hire an outside professional firm which has experience in corporate planning and specialized in the technical markup

and arrangement of organizational scopes to map out the industry with matched goals and figures within a given time frame.

As can be imagined, the program is wide and far reaching with the planned development of an entire maritime industry. The plan represents the thirteen units, which include the likes of shipbuilding and ship repair, domestic shipping, franchising which handles the domestic shipping transport network, and even STCW, in which the Philippines is a major industry.

The OSS, which is the concern of this research, handles the flag state registration of foreign ships under the Philippine flag, and essentially operates the open registry system of the Philippines. Part of the MIDP program under the banner of the OSS is the improvement of the Philippine ship registry, which has been identified as one of the major causes of the core problem identified in the MIDP, namely the declining competitiveness of the Philippine maritime industry.

As stated in the MIDP, ‘unattractiveness of the Philippine ship registry arises from:

- high cost of doing business (i.e., cumbersome procedures, numerous documentary requirements, and long processing time);
- outdated ship registration policies and regulations including lack of incentives; and
- the government’s inability to fully comply with relevant IMO conventions, among others

These underlying causes are deemed culprit to the declining number of the Philippine-registered foreign fleet from 2011 to 2017.’

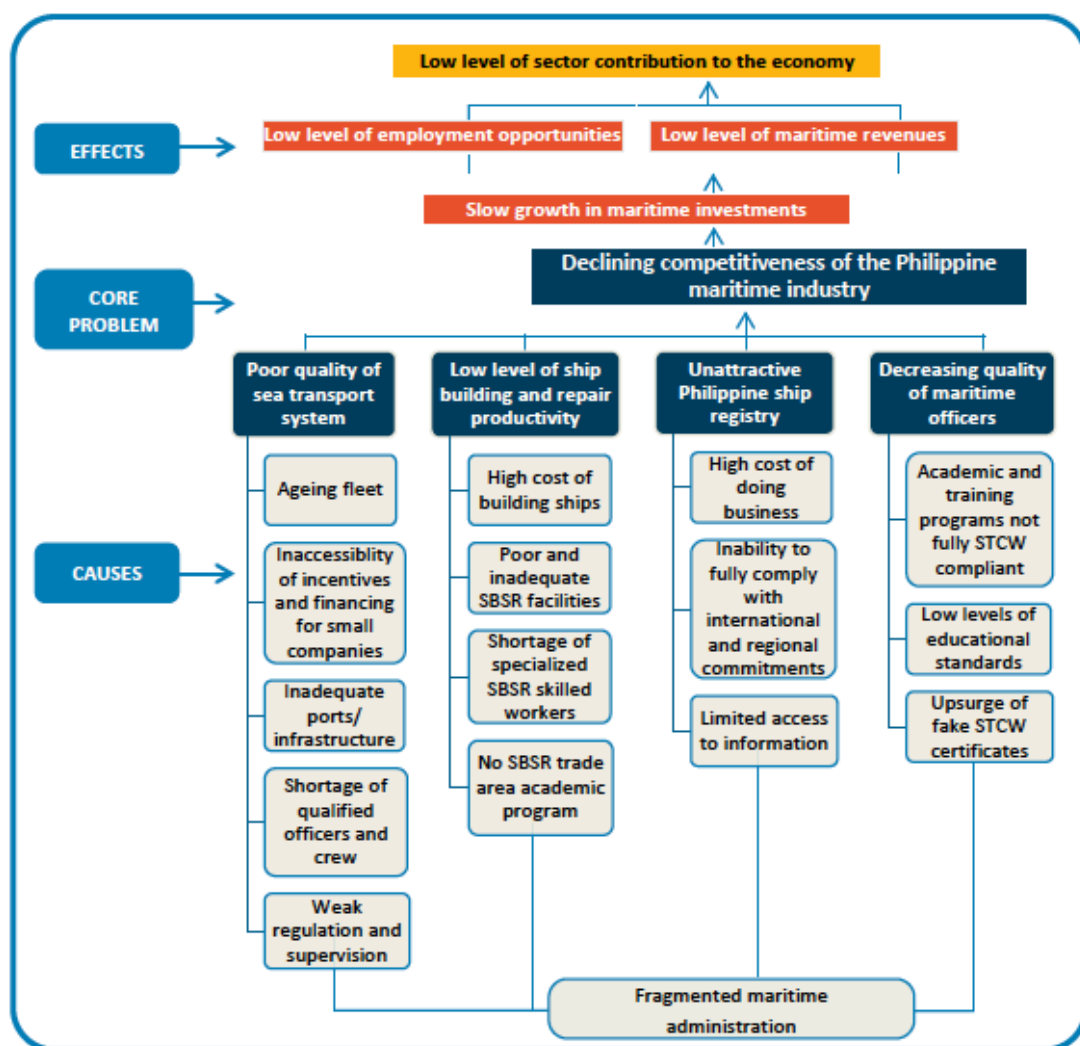


Figure 9. Effects of low level sector contribution to the economy  
Source: MARINA, 2018

With the identification of the problems with the Philippine ship registry as an underlying cause, the MIDP addresses this concern via a stated goal which in turn address the main root cause of the problem:

#### *An attractive Philippine Ship Registry*

Outcomes from this project will be an increase in the number of Philippine-registered ocean-going ships, increased taxes and revenues for the government, and increased employment for Filipino seafarers. The impact will be increased contribution of the maritime sector to the country's gross domestic product (GDP).<sup>7</sup> To address the main goal of an attractive Philippine Ship Registry and address the stated main three

issues of the registry, the MIDP outlined component projects based on the already existing laws, mainly:

Promotion of the Philippine Flag Registry:

1. Strengthening the regional and international cooperation (Association of Southeast Asian Nations (ASEAN), Bilateral Agreements) to support the competitive position of Philippine-registered ships;
2. Strengthening shipping services for Philippine export and import trade transportation;
3. Developing and promoting ship financing schemes, and incentives for ship owning and shipping industry;
4. Reviewing and improving bareboat chartering program and ship mortgage law;
5. Strengthening ship management, ship brokerage, ship chandling and ship insurance services; and
6. Strengthening the maritime administration through ratification and implementation of international maritime instruments and restructuring of MARINA.

As can be seen in the above component action plan to achieve the goal of an attractive ship registry, MARINA has put in place some of the suggested recommendations on some academic papers cited above in regards to ship registry, like the cooperation among open registry states, promotion of ship financing schemes, and rectification and implementation of international maritime instruments.

### ***3.2. Pending law/s to be approved by the Government of the Philippines***

#### **House Bill 9042 – Philippine Ship Registry System Act**

Recently, the House of Representatives approved on second reading HB 9042, seeking to establish the Philippines as a ‘leading maritime nation and respected flag State.’ (Palomar, 2019). The HB is aimed at establishing scope and procedure for the Philippine Ship Registry, recognition and enforcement of maritime claims and limitation of liability. Currently, there is only almost a hundred ships registered under

the Philippine flag despite the country's second ranking in the world as major supplier of maritime professionals all over the world.

ANGKLA Party-list Representative Jesulito A. Manalo is the principal author of the said bill, wherein he said that the bill aims to support the country in to be more competitive and to encourage more shipowners from all over the world to register their ships under the Philippine flag. He added that it is necessary to create policies that are in line with global standards and maritime conventions, especially on the ship registry.

In order to achieve this, we first must recognize that presently, there is a lack of a particular law completely addressing the registry system in the Philippines, which has been a perennial source of confusion and disorder.

Other countries have attracted many foreign-owned vessels to register under their flag states by reason of their simplified system of registration and the appealing incentives they offer. (Manalo, 2019)

The HB seeks to ensure the following points:

3. That Filipino-owned-and-manned maritime ships are strengthened and assisted to meet the required minimum global standards for reliability, safety, competitiveness, and effectiveness;
4. Encourage ship acquisition, development, modernization and expansion through systemized and sustainable programs;
5. Align the tax structure for the domestic and overseas shipping fleet to make it competitive;
6. Mechanism for implementation of international maritime regulations and conventions in order to provide protection to the merchant marine fleets and help expand Philippine international trade;
7. Establishment of the Philippine Ship Registry through which the State 'confers nationality, exercises its jurisdiction, protects and enforces private rights, and

undertakes the national and international responsibilities of a flag State, over all ships flying the Philippine flag’

8. Provisions on licensure; conditions for registration; issuance of Certificate of Philippine Registration; types of registration; taxes and fees; record of ship mortgages and encumbrances; maritime liens and encumbrances; ship mortgages; enforcement of mortgage; foreign lines and mortgages; right to limit liability; limits of liability; limitation fund; enforcement/investigation; and casualty investigation, among others.

The other authors of the bill are Representatives Teddy Brawner Baguilat Jr., Cesar Sarmiento, Gavini Pancho, Johnny Ty Pimentel, Mariano Michael Velarde Jr., Fernando Gonzalez, Noel Villanueva and Emmeline Aglipay-Villar.

It should be noted that “ANGKLA Party-List” is an organization of Filipino seafarers, their families and concerned individuals who give importance to the maritime industry. In addition, “Angkla” is a local Filipino term for an anchor.

#### *Philippine Ship Registry*

It can be noted that MARINA is pushing for the establishment of a Philippine Ship Registry ‘to strengthen the authority of maritime administration to register ships and set the conditions for the grant of nationality to ships which clearly established the genuine link between the ship and the State’. This will result in the establishment of a Shipping Registrar that will deal with matters involving the registration of ships and their encumbrance/s.

In addition, the establishment of a Philippine Ship Registry will finally combine the domestic and overseas ship registries. This will also draw interest from foreign shipowners to register their ships under the Philippine flag due to the simplified system of registration and the incentives that can be availed of.

Moreover, the taxation scheme for ships will be restructured in the Philippine registry by imposing a tonnage tax in lieu of tax on income earned from shipping activities. The registration of ships plying in the international waters should not only be limited to ships owned by corporations with a 60/40 Filipino ownership, but also to 100% foreign-owned corporations.



Thus, will greatly help in improving the economy as it will generate more income derived from ship registration, the tonnage tax to be collected and more job opportunities for Filipino crew.

Notwithstanding, the ownership of the corporation who wants to be registered in the Philippines, it will not lessen the control of the maritime administration over these ships since measures (majority of the crew are Filipino nationals, payment of tonnage tax to the flag State, establishment of branch office with any of its officers is a citizen of the Philippines) are in place to effectively exercise its authority and control over Philippine-registered ships.

## **4. BUSINESS REGIME**

### ***4.1. National Single Window***

The National Single Window (NSW) is a program supported by UNCTAD to develop a single trade system which will enhance trade and facilitate the smooth flow of trade between countries. In the Philippines, the NSW has been implemented in full swing, with the Bureau of Customs linking together almost forty (40) agencies in the NSW. Part of the program is ensuring that the agencies concerned have the same system for the processing of trade permits for goods and even what may seem rudimentary support to that system, which includes data and communications allocations.

MARINA is a part of this string of agencies, as its mandate includes import and trade permits to be issued on ship parts and the ship itself, which are imported and exported in the country. The NSW components are actually located in the Shipping Business Division of DSS of MARINA, and a specialized computer terminal with the necessary data processing equipment is installed, with its own dedicated communications and data allocations. In the current system, those seeking to process the import and export of ship parts and the ship itself seek permits from the Shipping Business Division, through customs brokers and agents, who then utilizes the NSW system to seek customs approval and regulatory permits from MARINA. The system ensures that legitimate customs brokers accredited by the Bureau of Customs are processing the customs and permits application, and that MARINA and the Bureau of Customs are able to harmonize the documents that they issue.

While the NSW and ship registration are different programs, the success and the wide application of the NSW can serve as a model for online ship registration in the Philippines. Currently, there is no online registration of ship registration in the Philippines, like those of top ship registry countries like Panama or the Marshall Islands, which allows for complete online registration. While this system is not what the Philippines aims at, the NSW can serve as a model to introduce online ship registration and provide ease and harmonization of documentations.

The proposed online ship registration can use the backbone of the NSW, as the documentations issued by MARINA is required in both the import and export of ships as well as in ship registration. By having the same documents in the same database, there would be a facilitation of registration. Likewise, the NSW system is already established in MARINA, and by utilizing its structure, albeit with some changes, the ship registration can be established faster and with the reliability that the NSW has been known for.

#### ***4.2. SWOT Analysis***

Foreign ship registration has been an ongoing concern for the Philippines as a state, specifically for MARINA, as the main regulatory body tasked to manage the registry. Since its creation in 1974, there have been many efforts within the management to enhance the registry, but a formal marketing program has not been established to make the registry ‘attractive’ and competitive to foreign ships.

The conduct of a SWOT analysis may seem a simple or rudimentary process, but it allows for the examination of the aspects of the registry to improve, maintain and build upon. Since the process to execute the marketing plan would be more gradual, employing administrative remedies while recommending more permanent solutions such as law changes, as opposed to immediate and intensive overhaul, a proper SWOT analysis will be beneficial so as to contextualize the registry system and the areas to improve and focus on. The SWOT prepared for the MARINA ship registry focuses on the current situation, while a more detailed analysis will be made to improve and address all the areas mentioned in the SWOT.

Figure 10 shows the summary of the SWOT analysis for the Philippine ship registry. Following a more detailed explanation for each point:

##### **Strengths**

1. **Only companies registered in the Philippines** are authorized to operate ships and its senior officers should be citizens and permanent residents of the Philippines

The Philippine ship registry, both domestic and overseas, openly promotes and encourages Filipino crew only and the management of its ships, given that the

country is a large maritime labor supplier. Like any other open registry system, which denotes flag of convenience for ships, a ship registered under the Philippine flag is entitled to its protection, privileges and trade relations.



*Figure 10. SWOT Analysis of Philippine overseas ship registry*  
*Source: Authors*

## 2. **Legal framework** and administrative regime

The Philippines enjoys a free and vibrant democracy, and a clear indication of this is the open legal framework of the country and its administration of rules, regulations and the parameters for the implementations of such, as well as the established agencies and civil service to enforce them.

This factor can be openly marketed as a strength, as many flag states have issues with implementation on rules and regulations, or that they are smaller states without the bureaucracy to support a larger ship registry. The fact that the Philippines is a democratic republican state, with a form of government modeled after western democracy, and a civil service tailored to the American model makes the system of governance accessible to foreign ship owners.

3. **Ratification of IMO Conventions** relative to safety and security of ships and marine environment protection, vibrant participation with high level delegation

The IMO is an important multi-lateral agency which essentially monitors and regulate the whole international commercial shipping industry, and essential to this is the active participation of states and the level of delegation the state holds in the IMO. While large registry countries maintain high level delegations, some smaller states have low level participation, and even hire their representation in the IMO.

The Philippines has always maintained a high-level participation in the IMO, owing to the fact of its high interest in regulations relating to manpower and shipbuilding. In this regard, MARINA has a permanent representative in the Philippine delegation to the IMO, to monitor issues related to all aspects of international maritime discourse. Likewise, the International Shipping and Development Division of the OSS, the MARINA service unit which handles international cooperation, has made it a mandate to ensure that the Philippines accede and ratify relevant and pressing IMO regulations to ensure the Philippines maintains its standing in the international maritime arena. It would be a benefit to any flag registry to have a state that has a strong standing in the IMO, as well as a constant and solid participation and accession to international rules and regulations.

3. **Politically neutral** with strong ties with ship owning states

International trade and international politics, though they may seem distinct and distant, are nonetheless intertwining. The political and often domestic issues in one country influences its international trade concerns which in the

long and even short run affects the international commercial shipping market and industry. The long standing and well discussed and long labored upon trade relations between China and the United States (Dave, 2019), or even the recently well publicized political tension between the United Kingdom and Iran (Saul, Hafezi, & Parraga, 2019) only serves to highlight a need for political stability for a flag state.

The Philippines has long been a politically neutral state, of long standing with international bodies and organizations. It is a party to numerous international dialogue organizations, a signatory to most international trade treaties, as well as a member of the Non-Aligned movement and the United Nations. Further, as a former colony of Spain and the United States, it has a strong relationship with the EU, the US and Latin American countries, strong ties with Japan, and an even blossoming relationship with China after years of warmer ties. The years of supplying manpower to Greek ships also builds a strong bilateral relationship with the Greek ship owners and the Greek state.

The strong Philippine foreign policy, a pillar of which is the support for its large diaspora of working citizens all over the world, makes the country an ideal location for a registry owing to its good relationship and neutrality in world political conflict and issues.

**4. Strong ancillary maritime industries (i.e. manpower, shipbuilding)**

When mentioning the Philippines in the maritime industry, it is certain to evoke thoughts of its strong maritime workforce. The Philippines has a long-standing policy of encouraging being a seafaring nation, owing to the fact that its history and archipelagic nature, but also due to its strong maritime workforce, both locally and in the international setting.

In recent years, the Philippines has expanded its role in the maritime sector, increasing its shipbuilding industry to rise to fourth largest in the world in just a period of ten (10) years. With these ancillary industries, as well as the well-developed local shipping industry, the ship registry will have the necessary support and mind set to host a larger registry to benefit the rise in the entire industry.

## 5. **Quality ship registry**

Numerous studies have belabored the point that the introduction of open ship registry of some states gives rise to poor quality ship registry that has low enforcement of laws and flouts regulations on safety, manpower and regulations. It is easy to see the beneficial Philippine registry in this regard, ie the Philippines has a strong enforcement of laws and regulations due to its long-standing policy of protecting its large pool of local and international maritime workforce. The Philippine ship registry would ensure proper enforcement which would benefit any ship owner in gaining access for their ship in other port state control.

## 6. **Cost and ease**

While the top ship registries arguably have offered lower cost as their main drive to attract foreign registrants, the Philippines can offer and match the competitive rates of other countries, as well as the ease in registration that they offer. Primarily, some top registries offer online registrations, and while the Philippines is not in a position to match that ease and sacrifice control, the state has other efforts to make the process simpler and easier for registrants, which will be discussed in the paper. Competitiveness in this segment is often most regarded, and is an advantage for the Philippines.

### Weaknesses

#### 1. Philippine-registered ships plying in international waters are all **bareboat chartered ships**

One of the major issues that investors have for the Philippines is its restriction in ownerships in businesses which it deems has national interests. Currently, the Philippine Constitution has limits to foreign ownerships of some businesses as a local partner or component is needed to be able to operate. While this apparent weakness is being addressed by the government, as will be discussed later, other modes of operations are encouraged to address this systemic weakness. Applications of bareboat charters and similar modes of registrations are encouraged, as well as special corporate vehicles to allow foreign ownerships in local corporations.

## **2. Ease of doing business index, streamlining of documents, online processing and payments**

Bureaucracy and red tape, both real and perceived, have been a strong concern of investors in the Philippines, and it is the same in the maritime sector. The ease of doing business index, as well as other trade and development measures, have ranked the Philippines away from some large registry countries, like the consistent top tier country Singapore, which is mere miles away from the Philippines. Issues on this concern will be discussed and taken into context further in the paper, but the tackling of this concern has been addressed both by the administrative and the legislative side, and there is a need to improve its intended perception of foreign ship-owners and ship registrants.

## **3. Tax regime – non-competitive fees and income tax**

While most top tier ship registry countries allow for a tax-exempt regime for foreign ship registrants (LOWTAX Global Tax & Business Portal, 2012), the Philippines is currently lacking this, as there is a general tax fee paid for ships under the Philippine registry. While this may seem non-competitive, there has been moves to better improve this through state tax and non-tax benefits, as well as shifting from income or gross tax to the more generally used tonnage tax.

### **Opportunities**

#### **1. Financing availability**

A consistently growing economy with a growth rate second highest in Asia for the last several years, the Philippines is able to grow different parts of its economy. Added to this is the recent credit rating upgrades from the major credit rating agencies, making borrowing and interest rates cheaper and allowing industries to invest. Local banks are partnering with international lenders to be able to give loans to different industries, and as will be explained later in the paper, the maritime industry is one of said beneficiaries, which can be taken advantage of by local and international ship registrants to the Philippines.



2. **Improving ease of doing business** through MARINA regulations, laws particular to the maritime sector

Related to the challenges stated earlier, the opportunity to improve the competitiveness of the country is there in regard to the implementation of bureaucratic reform and the introduction of the industry and the private sector. Local laws and administrative muscle have long been in place to manage these improvements, and particular to the maritime sector, the overall view of lack of ease in business is not thoroughly applicable.

3. **Development of ship management companies**

Primarily, due to the rise of ship manning offices and representative offices from foreign ship agencies, there have been a crop of local ship management companies in the Philippines which can offer competitive rates and services, and in the long term, bring new dynamics to the Philippine maritime sector. By localizing the business of ship management, there is harmonization between international crewing requirements and ship management, and it allows for operations of international ships by Filipinos based in the Philippines with a foreign ship with a full Filipino operated crew.

4. **Development of local overseas shipping companies**

Along with the influx of expertise in local and international ship management, there has also been a rise in local overseas shipping companies, which operate foreign commercial ships in international trade. This trend has been rising along with the uptick of the Philippine economy, with local conglomerates leading the charge in investing in non-traditional markets like those in the maritime sector. Local capital, combined with foreign investments, set up local corporations which own ships and operate them on their own or through these local ship management companies. The law has likewise taken up this effort, as will be discussed in the latter part of this paper. Opportunities for local ownership of foreign going ships will definitely bode well for the Philippine registry.

### Threats

1. **Continuous decrease in the number of ships** registered in the Philippines  
Despite the efforts of the state and of the administration in particular, in this case, there has been a noticeable trend of decline in the foreign ship registry in the Philippines. While this decline has been stable, it has been minimal, and can probably be explained by the better treatment of records, and arguable bode well for the registry and the administration in itself as it allows for a more competent registry, and overall a more accurate assessment of the state of the ships as well as a lower registry fee for the state.

2. **Competition from usual (traditional open) flag states** – creation of policy and business regime to attract ship registrants

By no means is it necessary to state how competitive the state registry of ships have become. The top tier ship registrant countries have a strangle hold on the majority of the registries and each state has ways to maintain its grip on the top level. While some open registry states entice by lowering cost, and to some, arguably, by lower regulations and oversight, some states require close registrations and maintain a grip on the ships of its national ship owners. It is the position of the Philippines that while competition is always high, there is still a place for each country in the maritime sector and there is no need to crowd in the top. As can be seen in the Philippines experience in other maritime fields, like ship manning and ship building, a slow steady race may be better in the long run rather than a quick race to the bottom.

#### ***4.3. Marketing Mix for the Philippine Registry (4Ps)***

The above-stated SWOT analysis identified the areas which the ship register in the Philippines is able to compete and what point to focus on. Part of the main goal of the analysis is the creation of a marketing plan, and a marketing mix is essential in that plan.

A marketing mix for a government program or a government service, such as the Philippine ship registry, maybe unheard of in the circles of the bureaucracy. Admittedly, the Philippine bureaucracy, MARINA has not been fully adept and has

not utilized the full potentials of marketing. There is thinking in government, at least in the old way, that there is no need to market government services since the people will always seek out government services, ie there is ‘no competition’.

However, this is not the case for an international ship register. While that thinking of no competition may work in the setup of local or domestic shipping, the competition is fierce within state and flag administration, and there are hundreds of other flag states that are vying for the same ship owners and offering differing values to entice registrants.

It is in this view that the Philippines should create a marketing plan which highlights the opportunities that were identified in the previous SWOT analysis, and the marketing mix should utilize all the benefits of the flag state in terms of governance, as well as the maritime industry of the Philippines as a whole. A wholistic approach to a marketing mix would entail marketing the entire benefit of the Philippines as a flag state.



*Figure 11. Philippine Ship Registry's 4Ps*

*Source: Authors*

1. **Place.** The Philippines is a central Southeast Asian country with archipelagic lanes and vast coastlines and oceans. It is central to proximity to major ship owning states like Japan, Korea, Singapore and China, including Taiwan, Hong Kong. It is logical to target these markets and places, as the Philippines enjoy strong ties with Japan and South Korea, a member of ASEAN, which gives access to a market of 500 million residents and as of 2018, a warming of relations with China and its territories.

The Philippines' central location is also ideal as a hub of shipping and its natural deep ports and harbors, as well as natural archipelagic structure gives it access to these countries. Further, the Philippines has close proximities to these countries, which provides logistics benefits.

To surmise, the place aspect for the Philippines are as follows:

- Target East Asian ship owners particularly Japan, Korea, China, Hong Kong, Taiwan and Southeast Asian hubs like Singapore ship registrants and owners
  - Market Philippines' central location in ASEAN and the whole of Asia for logistics
2. **Product.** In this case, the product is the Philippine ship registry, which should focus on its strong administration, flag state control, as well as the country's standing in the world shipping community. The ship registry is backed by a whole maritime industry including ship building and manning which are top tier in the world, and a government that adopts IMO and shipping regulations standards, as well as ties to other states and international organizations that support shipping. The Philippines is also politically neutral and part of the non-aligned states, making it less prone to political issues, like those of the United Kingdom. Emphasis can be placed on comparison to competing states with lower international stature and government infrastructure, like Liberia or the Marshall Islands, to highlight the Philippines benefits.

To surmise, the product aspect for the Philippines is:

- Philippine flag state registration is backed by strong maritime industry and a government/flag administration that is established with strong international ties and follows flag state rules
3. **Promotion.** Part of the current marketing trend of the Philippine flag registry is the participation of shipping management companies. Local ship management companies have a full administrative operation for foreign ships, in which these companies can accept bareboat foreign ships, register them in the Philippine flag under Philippine corporations, and provide full service from manning to operations and all other necessities.

This has been a growth area for the registry and the talented pool of Filipino seafarers, all experienced in shipping, are able to run these ship management companies and bring their expertise in the operations of ships. MARINA has been supportive of these ship management companies and have set up special

accreditation of these enterprises and help promote them to the international markets in East Asia.

To surmise, the promotion aspect for the Philippines is:

- Promote a full service ship registry and operations center, with ship management providing full service operations from registration, corporate operations, manning and other requirements for shipping owners and companies

4. **Price.** In the terms of pricing, the main concern of shipping owners and registrants is the reduction of costs, which is the main reason of registering in a foreign flag state. The Philippines offers very dynamic pricing and can even match the rates of other flag states, as the country aims to grab market shares, and likewise to grow its other industries like ship manning, ship management, ship building and repair, and other allied services.

The Philippines can initially forgo the income to be derived from the ship registry, as other allied services in the maritime sector, particularly its lead role in ship manning and ship building and repair, as well as its budding enterprise of ship management which the government is very eager to develop, can compensate for the loss revenue, but for the overall benefit of the industry.

While the Philippines can offer very competitive rates, its other allied services are definitely more cost effective like other top tier flag states, eg Singapore.

To surmise, the price aspect for the Philippines are:

- Competitive pricing can be offered, as growth in other maritime industries to be expected and can compensate initial loss of gain in ship registry income.
- Comparative benefit to more expensive flag states like Japan and Singapore, which has significantly higher operations and other associated costs, makes the Philippines ideal

### 4.3. Ease of Doing Business

The Ease of Doing Business is a project developed by the World Bank to determine the level of a country's regulatory performance over time (World Bank, n.d.). It shows the gap between an economy's performance and its best performance at any point in time in order to assess the change in its regulatory environment.

Part of the challenge the Philippines face in attracting ships to its national registry is the overall perception of doing business in the country. The World Bank annually releases an 'Ease of Doing Business' index, and while the Philippines ranking has been improving in the past couple of years, the 2018 index shows the Philippines fell from rank 113 to 124, out of 190 countries (as shown in Table 6), which is not an impressive rating. The Philippines ranking was a 'medium' in ease of doing business (World Bank, 2019).

Table 8

*Ease of Doing Business rank and score*

Country	2018 Global rank in Ease of Doing Business	Ease of Doing Business Score	
		2017	2018
New Zealand	1	86.59	86.59
Singapore	2	84.97	85.24
Denmark	3	84.05	84.64
Hong Kong	4	84.18	84.22
Korea	5	84.15	84.14
Georgia	6	82.8	83.28
Norway	7	82.7	82.95
United States	8	82.76	82.75
United Kingdom	9	82.32	82.65
North Macedonia	10	81.23	81.55
Panama	79	65.71	66.12
<b>Philippines</b>	<b>124</b>	<b>56.32</b>	<b>57.68</b>
Marshall Islands	150	51.61	51.62
Liberia	174	43.55	43.51

Source: World Bank, 2019

It can be observed that the Philippines has a higher ranking than the Marshall Islands and Liberia, both of which are top countries in ship registration by deadweight tonnage. While the Philippine's overall ease in doing business score in actually improved by 1.58%, and the Philippines filing a protest in the drop in ranking, the

index in itself serves as negative connotation of the country in facilitation of international business, including ship registration.

However, the index must be taken into context, particularly in regard to the maritime sector. The index is a view of the entire country, and as such, includes aspects which are not wholly related to the maritime sector, like those of cost and access to electricity, construction permits, registering property, availability of credit, paying taxes, trading across borders, enforcing contracts and resolving insolvency. While the World Bank was able to provide empirical evidence as regards the index and its correlation to growth impact in the country, the index is more based on impressions or views of respondents rather than actual occurrence or hard data.

Further, looking at the top countries in ship registration based on where they are in the index, while Panama has a relatively high ranking of no. 79 and a tag of ‘easy’, another top tier country, the Marshall Islands, has a lower rating of no. 150, and a tag of ‘below average’.

The Global Competitive Index, compiled by the World Economic Forum, shows another picture which highlights the stark difference in country rankings. The index attempts to measure the quality of the economic environment in terms of its ability to achieve high levels of productivity, which is seen as the underlying source of prosperity and growth. The index is divided into 12 “pillars” – institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labor market efficiency, financial market development, technological readiness, market size, business sophistication, and innovation (World Economic Forum, 2018). The index has ranked the Philippines in 56th, way ahead of Panama, which is 64th, as shown in Table 9.

The Philippines can promote its improving score rather than focus on the country ranking itself, and by selling the maritime sector in particular to its intended market of ship registrants. Likewise, the method of employing local ship management agents who are intended to actually handle all ship registration processes can be shown as an indication that the ship registration process is being eased up as regards the foreign principals.

Table 9

*Global Competitiveness Index 4.0 2018 Rankings*

<i>Economy</i>	<i>Ranking</i>	<i>Score</i>
United States	1	85.6
Singapore	2	83.5
Germany	3	82.8
Switzerland	4	82.6
Japan	5	82.5
Netherlands	6	82.4
Hong Kong	7	82.3
United Kingdom	8	82.0
Sweden	9	81.7
Denmark	10	80.6
<b>Philippines</b>	<b>56</b>	<b>62.1</b>
Panama	64	61.0
Liberia	132	40.5

*Source: World Economic Forum, 2018*

In the policy side, MARINA and legislative efforts have been implemented to cut red tape and to make the process of ship registration easier. The Philippines has long passed an Anti-Red Tape Act, which is legislation made to combat corruption and ease business and the country's competitiveness. This is headed by an Anti-Red Tape Commission, which monitors all government agencies, including MARINA, in its efforts to remove red tape. MARINA itself has several orders which improves ship registration, particularly by implementing standard processing time and a schedule of fee, all of which are accessible at the agency's website.

#### ***4.4. Order, Administration and Justice ranking***

A country's system of administration and justice is important for any investor, and more so in the flag state registry as any ship under a particular flag will follow its laws, regulations and administration of justice. The Philippines is a long-standing democracy and along with it is a set of judicial administrations and laws that follows a western format due to its heritage of Spanish and American laws and jurisprudence. Rule of law can best surmise this importance, as any foreign investor or entity wants protection for their property and person and a cover of balance and fairness in dealing with the state and its state actors.



Just as important as the ease of doing business ranking is a country's ranking in terms of order, administration and justice ranking. This ranking rates the state administration in terms of enforcing its laws and its justice system, as well as other relevant factors. The World Justice Project is a grading system that ranks governments and administrations based on an analysis which includes a country's publicized laws and government data, right to information, civic participation, and complaint mechanisms. Table 10 shows that the Philippines is in the 50th place out of 102 countries; while Panama is 45th and Liberia has a lower ranking of 71st (World Justice Project, 2019).

Table 10

*WJP Open Government Index 2015*

<i>Economy</i>	<i>Ranking</i>	<i>Score</i>
Sweden	1	0.81
New Zealand	2	0.81
Norway	3	0.81
Denmark	4	0.78
Netherlands	5	0.76
Finland	6	0.76
Canada	7	0.75
United Kingdom	8	0.74
Australia	9	0.74
Korea	10	0.73
Hong Kong	24	0.63
Singapore	25	0.63
Panama	45	0.55
<b>Philippines</b>	<b>50</b>	<b>0.54</b>
Liberia	71	0.48

*Source: World Justice Project, 2019*

The relatively favorable ranking of the Philippines in terms of rule of law, as well as the country acceding to international agreements on arbitration and applications of commercial dispute resolution has been a key focus of the government in attracting investors, and can be utilized as a marketing tool for the flag registry. In terms of IMO representation, the Philippines has consistently maintained its representation in the IMO, and reaching a consistent level in the governing body and a seat in the IMO Council. Likewise, MARINA has consistently worked on the

ratification of most important IMO documents, making the Philippines up-to-date in all relevant IMO doctrines.

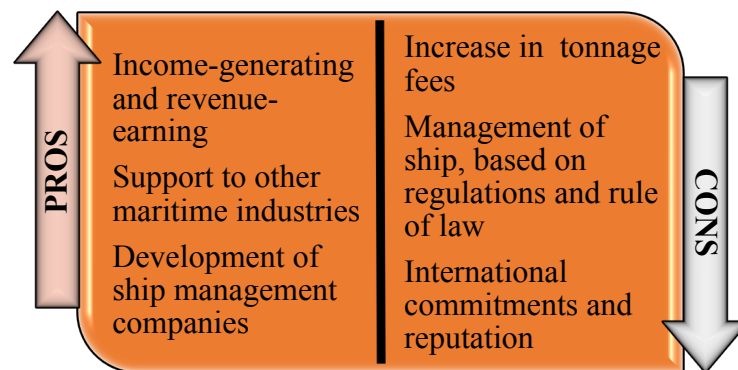
#### ***4.5. Other related sectors***

The improving economy of the Philippines has a positive impact on the financial sector of the country, which has seen a rise in lending for several sectors of the economy, particularly in the maritime sector.

A case in point is the opening up of several large foreign ship yards in the country, particularly the Japanese Tsuneishi Heavy Industries (Cebu), Inc. and the Korean Hanjin Heavy Industries in the former American Naval yard in Subic in Zambales province. Both projects needed heavy financing, and the local banks made available a financing package to help develop these projects. A consortium of foreign and local lenders was tapped to finance the constructions of these massive industrial shipbuilding areas.

With the improvement of foreign ship registering in the Philippines, local financing can likewise be made available to these foreign principals as the primary assets will be under Philippine jurisdiction, which will be an enticing proposition for local lenders. With the ship assets being in Philippine flag, the mortgages can be executed under Philippine laws, which base its procedures to widely accepted American jurisprudence. Special admiralty courts can be set up to handle these cases or arbitration arrangements can be made which the Philippines has already set up.

#### ***4.6. Pros and cons of ship registry in the Philippines***



*Figure 12.* Summary of pros and cons in registering in the Philippines

## **5. POLICY DISCUSSIONS AND RECOMMENDATIONS**

### **A. The creation of one administration for the entire maritime industry, MARINA, which also manages the ship registry, creates synergies and opportunities, but prone to neglect and bureaucracy**

It was found that the system of laws that created MARINA has focused on the creation of a strong central agency that controls a vast bureaucracy and that in turn monitors almost all aspects of an industry.

MARINA's role as sole authority in the formulation and implementation of policies as regards the maritime industry in the Philippines is both wide in scope and breadth and filled with opportunities. For instance, with control to different areas of the maritime industry, it can leverage its maritime manpower and ship building to help develop its ship management and ship registration, as the case is being done now.

While MARINA has been able to adjudicate this role, the fact that it has no clear direction and guidelines as mandated to it by law shows lack of vision and a waste of possibilities for the industry. This can be seen in the fact that MARINA is just now implementing an industry plan under its MIDP, when it has been mandated since the 1970s. There has also been over focus on one industry, manpower, to the detriment of other industries like ship registration.

Therefore, the recommendation is that while maintaining MARINA as the sole authority, specialized segments should be created outside the bureaucracy to monitor the health of the various industries under MARINA's charge. The participation of special oversight, similar to the earlier discussed congressional oversight in the form of special maritime industry legislators in congress, as well as executive reviews from the DOTr, can keep the MARINA bureaucracy in check.

### **B. There are sufficient laws to empower MARINA, and sufficient policy and accession to international agreements to support the ship registry, but there is lack of proper implementation and need for modernization**

In the preceding review of laws and regulations, it can be surmised that there are enough laws that cover the industry and policy to effect the flag registry in general.

The domestic laws concern on the operation of the flag state registry has been fully covered, as laws have been well in place and the administration and monitoring of the flag state have been implemented as state policy.

The Philippine accessions to various IMO documents with regard to the flag state registry have been likewise maintained, and the flag state administration remains in the list of states that has maintained a proper management and monitoring of its ships. Likewise, the administration of port state control, a function of authority of the flag state, has been properly executed by the Philippines.

However, the system of implementation of laws, regulations and policy is severely wanting. The data and registration of ships is not accurately done as mandated by MARINA's own policy, and the list of ship registry maybe inaccurate. Ship synopsis records are still manually collected and accuracy is suspect. There is no computer or modern database in place unlike in other flag states which can provide for online registration. These, and other mundane, yet essential and modern techniques for the administration of flag states are not present in MARINA.

In the preceding analysis, there is emphasis on the National Single Window and how it can serve as a model for the online and computerized system of ship registration. It is recommended that while policy is present, MARINA needs to upgrade its system, and implement policy in the 21st century, as it is hard to realize how the Philippine flag registry can compete when the top tier flag states have made their registry systems functional, and reporting accurate.

**C. There are ideas to leverage the advantages of the Philippine ship registry, but lack of marketing is prevalent**

MARINA's focus on policy and administration has sorely left the side of business and promotion wanting, making the manifold efforts wasted due to low interest and uptake from local and foreign capital. Successions of economic laws were passed to address the competitiveness of the flag registry, such as tax reforms, incentives, and others which date more than thirty (30) years back. However, despite passage of laws, the uptake from the local industry has been lackluster.

It can be stemmed from a mismatch of laws, and even the deeper rooted aspect of distrust in foreign capital or investments. The Philippine constitution bans direct foreign ownerships on business that it sees as vital to national interest, and this has kept foreign business interest from investing in the Philippines. Due to rigid ownership laws on local ships, only Filipino citizens can own ships. While law and policy has been more focused on the local industry, there was little capital and interest in the shipping business, and even the administration was kept busy with a focus on the more lucrative and politically significant maritime manpower sector.

With an improving national economy, and a growing appetite from local investors as well as cheaper capital, the flag registry can be grown locally, but also with participation of foreign capital. Schemes and administrative remedies to allow foreign ownership has been developed, such as allowing bareboat charters of foreign owned ships, have helped keep the registry growing, as economic restrictions are slowly being lifted.

The general perception of ease of doing business has also not helped improve the registry, as can be gleamed from the fact that top tier country Singapore is just several miles from Manila, and Singapore having excellent marks in terms of doing business. The Philippines can promote itself as alternative to its close neighbor Singapore by focusing on its strengths as a more cost effective to Singapore, and more reliable as opposed to other top tier states like Liberia or the Marshall Islands.

It is recommended that a proper marketing plan and program be developed, funded and targeted based on the SWOT and 4Ps analysis as stated in the previous chapter. The thinking that marketing is not the field or effort of government will not survive in a global field of competition in the flag state arena. There is also an urgent need to tap both the local and international markets in order to increase the ship registry of the country.

**D. The Maritime Industry Development Plan is vast and has identified the ship registry problem; however, it needs attainable goals**

The drafting and the planned implementation of the MIDP for the first time since the creation of MARINA is a step in the right direction. It clearly delineates the

goals of the agency and the task of each industry member from both the private and public sector, as well as definitive enough to state specific goals and targets in terms of indicating time frames and allocation of resources, both in terms of wealth and manpower.

The MIDP in itself is vast and covers all the sectors of the industry, which makes the plan bold and ambitious, but also prone to failure due to its large scale. However, by dissecting the tasks and goals to different arms and agencies, focus can be achieved, as well as the synergies which can be developed from improving these related maritime sectors.

The OSS has correctly identified the importance of the foreign flag registry and by providing a clear role for the development of the foreign flag ship registry in the MIDP's goal of making the Philippines into a global maritime hub, but tied the development of the foreign ship registry with the local ship registry.

It is recommended that KPIs which measures the growth of the registry must be put in place, but other metrics must likewise be considered. While the number of ship registers must essentially increase, as this is the basic measure of the health of the registry, other metrics should be considered like those of increases in registration of maritime enterprises or corporations. These allied metrics can measure the overall health of the registry, and provide a path to increasing the benefit of the increased registry to the other maritime fields.

**E. The goal of the Philippines is not to be the top ship register, but to improve the registry by leveraging the leading maritime sectors of the Philippines**

Goal setting is an important part of any business policy, and the Philippines registry does not aim to reach or topple the top tier countries in the perch of the global flag registries. It is enough that the Philippine registry grows in number to sufficiently support the allied industries in the maritime sector.

Further, the manpower, shipbuilding and repair, as well as the budding ship management sectors, can influence and improve the register, and at the same time provide overall benefit to the entire industry and the economy.

**Overall recommendations:**

1. Identify specific activities and timelines to implement HB 9042, especially those provisions addressing the issues and challenges of the Philippine registration system
2. Conduct study on the success indicators of the NSW as it pertains to online ship registration in the Philippines
3. Identify measures of improvement and measurements to adopt from the SWOT analysis focusing on those which will boost ship registration such as ease of doing business, tax regime, possible termination of bareboat charter law, continued grant and availment of incentives for new acquisitions (local construction and importation), review available financing schemes, etc.
4. Conduct a study and assessment on the shipbuilding capabilities of the Philippines in terms of ship type that can cater to the requirements of the overseas shipping sector
5. Conduct a study on the carriage of international trade by Philippine flagged ships and determine the factors that will boost increase on such carriage and how to encourage foreign countries to select Philippine flag ships to carry their goods
6. Conduct a review of the current position of the Philippine seafaring supply based on the world index and how to improve such position
7. Conduct a study and assessment on the ship management industry in the Philippines and how to become a top ship management provider in Asia and the world
8. Conduct a study on the provisions of the “Ease of Doing Business” Law and propose areas of improvement and implementation thereof with respect to foreign ship registry
9. Push for the merging of the domestic and overseas shipping registries in order to have easier monitoring and recording of ships’ details

### ***5.1. Summary and Implications***

Through this analysis, an in-depth analysis of the Philippine registry is provided from both the policy and the business framework, which has not been done in previous research and papers.

To conclude, while policy, which covers the laws and the administration, is present and sufficient, proper implementation, planning, foresight, and even basic technology are lacking. There is the basic text to support ship registration, but the implementing part of the framework is lacking and needs work. It is not to say that there is lack of effort, as there are moves done to address the concerns as can be seen in the MIDP, but for the flag state to be truly competitive and stand a chance, these basic necessities of a modern registry must be in place.

In the business framework, again, the legal and statutory presence is there in terms of laws and incentives. However, marketing is almost non-existent, and the industry has been left to its own devices to entice registrants, which can be seen in the low increase in ship registry. A properly made marketing plan, well-funded and executed is necessary to give meaning to the business incentives provided in the law and policy.

While work as regulators and administrators in the bureaucracy, what can be learned in the field of business and logistics are already being applied in governance in other jurisdiction, and it is the goal to implement the same in the Philippine ship registry.



## **6. CONCLUSION**

### ***6.1. Summary***

The process by which analysis was performed is through the use of business and logistics skills from the course to implement change in an administrative setting, as first and foremost the authors are government bureaucrats. MARINA's governance setting is no reason not to implement common business sense approach and marketing to the services provided by the agency.

In a competitive field like the flag ship registry, mere policy is not enough without a business framework, which includes a marketing program for the industry. The best practices of other jurisdictions need to be replicated, along with the proper focus on the strengths of the Philippines maritime industry and its bureaucracy to improve and bolster its ship register.

Further, an emphasis on goal setting, as well as a proper mechanism for the measurement as to the attainment of those goals, needs to be properly laid out to gauge the effect of policy in the industry.

### ***6.2. Way forward***

In the process of research for this paper, there was a lack of analysis of data and overall review of policy from the Philippines while there are several studies made from other maritime jurisdictions, like Panama and Liberia. It is intended to encourage the further exploration of analysis of Philippine data in ship registration, particularly in the coming years as the implementation of the MIDP comes into full swing.

The application of KPIs, as well as a reasonable appreciation of goals for the growth of the ship register and other allied industries, can be a good measure on how good planning and policy from an administrative point of view can influence business growth in the maritime sector, particularly in the manpower and ship building where the Philippines is a major player.

A correlation study between policy and growth of particular industries can be made with the Philippines as a subject, and utilizing the Philippine maritime sectors and data, particularly the benefit of a growing ship registry to the overall maritime sector.

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